CORRUPT HORSERACING PRACTICES ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIMINAL LAW

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 1043

A BILL TO PROHIBIT THE DRUGGING OR NUMBING OF RACEHORSES AND RELATED PRACTICES, AND TO AMEND TITLE 18, UNITED STATES CODE, TO PROHIBIT CERTAIN ACTIVITIES CONDUCTED IN INTERSTATE OR FOREIGN COMMERCE RELATING TO SUCH PRACTICES

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CORRUPT HORSERACING PRACTICES ACT

WEDNESDAY, MAY 26, 1982

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL LAW,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 5110, Dirksen Senate Office Building, Senator Charles McC. Mathias, Jr. (chairman of the subcommittee) presiding.

OPENING STATEMENT OF SENATOR CHARLES McC. MATHIAS, JR.

Senator MATHIAS. The subcommittee will come to order.

Three weeks ago, the running of the Preakness took place at Pimlico for the 107th time, and this second jewel in the Triple Crown was, as we expect in Maryland, an exciting race. I think it made Marylanders proud and racing enthusiasts from all over the world cheer.

The Preakness is, in fact, the only race that is so important that the Congress of the United States once actually adjourned so that Members of Congress could attend without missing a vote. That is an old custom that I think, Senator Pryor, we might revive.

Senator PRYOR. We need to adjourn more, Mr. Chairman.

Senator MATHIAS. Maryland rightly claims to be the cradle of all horseracing in the United States, since two of the most famous thoroughbreds, Queen Mab and Spark, were brought to the Belair Plantation by Governor Ogle in the 1740's, and the committee contemplated that we might hold this meeting out at Belair, which is just a very few miles east of Washington, but the pressure of the ongoing session made that impossible, although I hope that Governor Pryor will join me out there some day at that historic spot.

Benjamin Tasker, who was Governor Ogle's brother-in-law, and who succeeded him as owner of Belair, had a broodmare called Selima, and since then racing has been a part of the Maryland tradition.

So it is with this very proud past in mind that I thought it important last year to warn—if "warn" is the proper word—to caution the racing community that there was a small, dark cloud on the horizon, the possibility of Federal legislation dealing with the problem of horsedrugging.

Since "Preakness Week" a year ago, I have watched the progress of the States in coming to grips with this problem on their own. Although some progress has been made by the States in accepting a uniform set of medication guidelines, I think it is clear, and I think most fair-minded people would conclude that the States have not yet solved the problem. Drug abuse on some racetracks persists, and the practice of numbing or masking injuries or soreness is still with us. While some medication is, of course, necessary from time to time to cure illnesses that could keep these magnificent animals healthy, it seems to me that race-day drug treatment is hard on the horses; it is unfair to the horses and unfair to the bettors, since the records of past performance are worthless without an accompanying record of medication.

Today, we will be discussing S. 1043, which has three primary provisions: First, it would require prerace testing of all horses; second, it would ban the race-day use of all drugs, including bute and lasix; and third, it would prohibit the icing, numbing or freezing of all horses prior to a race.

It is a tough bill, but it is a tough problem.

Today I want to ask our witnesses about the progress that has been made at the State level. We want to find out if the States have a real interest in eliminating race-day drugs, and if they have the technical capabilities, and if they are willing to devote the resources to an effective antidrug program. I said last year that I thought the Federal Government should be the regulator of last resort and the Drug Enforcement Administration, in a letter that I will make a part of the record today, seems to agree with me. Under current budgetary restraints, they claim they would be unable to undertake any new responsibilities. But that, of course, is a decision to be made by the Congress, and that is what this hearing is all about.

So I want to thank the witnesses, some of whom have traveled a long distance to be here today. They include experts from various organizations in the racing community, as well as Members of Congress. Of course, the first witness is the author of the bill, the very distinguished Senator from Arkansas, former Governor of Arkansas, who knows this problem with the State as well as from the Federal level, and it is my pleasure to welcome him today.

Before Senator Pryor begins his testimony, let me make the announcement that the record will be left open for 2 weeks for additional submissions. We request that all oral testimony be limited to 5 minutes to allow time for some questions and to make sure that all the witnesses have an opportunity to appear in person this morning. Senator Pryor.

STATEMENT OF HON. DAVID PRYOR, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator PRYOR. Mr. Chairman, I want to first thank you so very much for calling this hearing and for inviting me here today to participate in the consideration of this legislation.

I deeply regret that we find it necessary to be here today to discuss the issue of the misuse of drugs in horseracing. Yet, I feel that, if this problem is to be solved, it must be faced.

I, like you, share the belief that oversight of horseracing is a matter that would be best left to the able operation of the various racing States. In my home State of Arkansas, for example, I am proud to say that horseracing is a sport that is well run and well regulated. Unfortunately, this is not the case for racing, as a whole, throughout our country.

It was only after considerable soul searching on my part, Mr. Chairman, that I first introduced legislation in this area in the 96th Congress. I was convinced then, and remain even more so today, that this legislation is an appropriate and, indeed, the most realistic answer to the persistent problem of the misuse of drugs in horseracing.

Mr. Chairman, no other major racing country in the world today allows the prerace medication of horses—only in America. In this country, there was a steady increase in the misuse of permitted drugs, beginning in the 1960's when drug restrictions were relaxed. This development was coupled with the increased availability and use of illegal and even more powerful narcotics.

Mr. Chairman, these drugs are used not only to numb an injured horse in order to keep a lame horse racing, but drugs are also administered to alter the performance of otherwise healty horses. Other drugs are used to mask the presence of illegal drugs.

The result of this practice has been increased numbers and severity of injuries to horses and jockeys and unfair racing practices to racing fans. Today we are faced with racing laboratories, understaffed and underfunded, which are simply not equipped to test for the exotic new substances which are available—honest horsemen, frustrated because they cannot win by racing fairly, who are leaving the sport—and concerned spectators who are turning to other forms of sport. I submit that racing will continue to suffer these troubles until the drug-abuse problem is solved.

State and industry efforts to check the abuse of drugs have been slow in coming. It was not until a month before I first introduced this legislation in 1980 that the National Association of State Racing Commissioners issued a set of guidelines severely reducing the use of formerly permitted drugs.

Most of the States adopted these guidelines and the even stricter ones which followed a few months later. Yet today, under pressure, most of those States have now lapsed back into old rules or have adopted strict rules with little enforcement to make them work. Today, according to figures compiled from industry publications, not one single State is in full compliance with the NASRC guidelines, and only three States are even close.

It concerns me, also, that some actions have been superficial. During debate over medication rules in 1980, a racing commissioner argued in favor of a strict, no-medication policy on the State level because it was the most effective way to eliminate Federal involvement in this issue. I might add that this same commissioner later stated that the strict, new rule could be repealed as soon as the specter of Federal intervention had disappeared.

Mr. Chairman, I do not think I am stretching the point to be able to assume that, if this legislation is allowed to die, racing will go back to its previous practices and its drugging problems will continue to tarnish the sport. I do not want that for my State, and I doubt that you want it for yours.

A 1979 survey conducted by the Blood Horse magazine showed that more than two-thirds of the breeders and owners who responded opposed the medication of horses at the time of a race, and nearly all of the remaining respondents felt drugs should be allowed only under the strictest controls, with stiff penalties for violators.

The focus of the controversy surrounding this legislation is not that there is a problem, but whether that problem is best addressed by a Federal solution. Regrettably, I believe that today that answer is yes.

As I have stated, I agree that regulation of horseracing is basically a function that should be preserved for the respective States. However, the need for the establishment of Federal minimum standards arises from the fact that racing in this country is truly an interstate sport. Horses and racing fans regularly travel across State lines. In fact, horses may be trained in one State and raced in as many as 30 States. Owners, trainers, and fans now find laws with respect to permissible drugs varying with each jurisdiction. And, as evidenced by the recent actions of many States, the establishment of uniform rules is difficult to accomplish on a State-by-State basis.

The most important objective of the legislation we are considering today is to turn the current patchwork of State medication rules and regulations into one single, enforceable, uniform standard. The effect of this would be fourfold:

First, it would prevent confusion on the part of horsemen and spectators over the different rules in the various racing States. Second, it would nullify the threats of strikes or boycotts in reaction to the enactment by individual States of more stringent controls on drug use. Third, it would serve to equalize laboratory expertise and testing in all jurisdictions. Fourth, this legislation would provide equal penalties and effective enforcement of the rules in every racing State.

Mr. Chairman, I would also like to briefly state the major provisions of S. 1043:

It would establish uniform Federal "minimum standards" for drug control programs.

It would require prerace veterinary inspections of all starting horses to screen out injured or drugged horses.

It would require that urine and/blood samples be taken and analyzed from all starting horses.

It would allow the freezing and storage of fluid samples for retesting when new drug detection methods are developed.

It would establish uniform civil and criminal penalties for drug violations.

It would allow any State which implements a program which meets the minimum Federal standards to apply for an exemption from Federal administration. In addition, there would be a 2-year period following enactment of the legislation to allow States time to implement their own program to qualify for the exemption.

It would "sunset" 10 years after enactment.

The legislation would not prohibit the use of feed additives nor would it prevent the administration of legitimate, theapeutic medications to horses. It would merely make it illegal to race horses which are under the effects of such medications.

Mr. Chairman, the sport of horseracing is, and should remain, a matter of State business. It is only the problem of drug misuse which we seek to address in this legislation. In fact, our proposals differ very little from those put forth by various racing organizations. The only difference is that we have the authority to make the program work that the organizations lack.

The legislation the subcommittee is considering today will, I feel, Mr. Chairman, provide for a basic mechanism which will eliminate drug abuses and reduce injuries to both riders and horses.

I believe that passage of this legislation will benefit all of those connected with the sport of horseracing, and I hope this legislation will receive swift and, hopefully, favorable action.

Thank you, Mr. Chairman.

Senator MATHIAS. Well, Senator Pryor, this bill is, as you say, a test of our Federal system, a test of the vitality of the States interests in coping with problems. We hear a great deal today that the Federal Government should retreat from the regulatory field and the Federal Government should get out of the regulating of the lives of citizens and the activities of communities, and this is a perfect example of where local communities and States have the opportunity to move, and to move rapidly, to deal with a problem which is perceived to be a problem by a broad spectrum of the American people, and which is perceived to be a problem at the Federal level as well as the State level; but, if it isn't going to be dealt with at the State level, it clearly is going to be dealt with at the Federal level.

I think a notice is contained in your bill, is it not?

Senator PRYOR. That is correct, Mr. Chairman. I recall years ago when the two of us were together in the House of Representatives in what we might now call "that other body."

Senator MATHIAS. The good old days.

Senator PRYOR. The good old days when things were simple. I remember the issue came before the House of Representatives and the Senate at that time relative to meat inspection, and there was a great hue and cry from the States that this should be a State problem, and that the States should be responsible for its regulation.

If I am not mistaken, the Congress, in its wisdom, enacted legislation giving the States the necessary time to comply with, basically, the Federal minimum standards. Some States did comply. Some never did. If States didn't comply, the Federal Government moved into those areas and regulated meat inspection to protect the safety of the American population.

This generally, Mr. Chairman, is that sort of approach. Let's see if the States will comply. If they are not going to comply, if we are going to continue with a patchwork of rules and regulations that differ from State to State, then because racing is an interstate business, I think the only alternative is for the Federal Government to step in.

Senator MATHIAS. You have said twice this morning that racing is an interstate business, and I don't disagree with that, and we had an illustration of that a year or two ago when it was necessary for the Congress to enact offtrack betting regulations in order to really save a number of the local tracks, in order to prevent the kind of consolidation that could have gone on so that we would have had only one racetrack in Kansas, on which all the betting parlors in the country would base their operation. I hope it would never come to that, and the action of Congress has prevented that. But that is the kind of thing that I think the Congress did have to move in on, because only the Congress could cope with that particular problem.

But you have been a Governor. Do the individual States have the capacity and the authority to deal with the problem of drugging at tracks located within their own jurisdictions and territorial boundaries?

Senator **Pryor**. I think, Mr. Chairman, having been a Governor, that the States have the capacity if they are willing to exercise it. The question is, do the States have the resolve? Do they have the commitment? I think this legislation would strengthen their resolve and give them the reason to go forward and do something on their own.

The other problem I see that this legislation seeks to address is the lack of enforcement of present State regulations. The concern I have is that while the States may feel that eliminating drug abuse is a good idea, they are not putting enough emphasis on the enforcement aspect of making certain that horses are not drugged. This is why we must have a relationship, I think, between the Drug Enforcement Administration, the State racing commissioners, and others on the State level. I think we can see evolving from this a very effective partnership that can be most effective not only in furthering State resolve and commitment, but also enhancing the capacity to enforce and to regulate this great concern.

Senator **Mathias**. In your statement, you refer to the increased availability and use of illegal and even for powerful narcotics. Now, you are absolutely right that the spectrum of drugs available is increasing almost by the week, and this requires a greater State effort. It requires greater sophistication in laboratories, and a greater degree of skill of State chemists, and it requires some greater resources.

But most States get substantial revenue from racing, and ought to be willing to plow back at least a modest part of that new enforcement.

Do you feel that Governors will respond, if your bill is passed, and make available as part of their State budgets at least the minimum necessary to cope with this increasing problem of drugs, and with the new and novel and sophisticated drugs that are constantly coming into the market?

Senator **Pryor**. Mr. Chairman, I think that the Governors would respond affirmatively. It would be good business to do so, and it would help the credibility of racing in each State.

I also feel that the industry itself—and I know that we have some fine industry representatives here today, and I look forward to hearing their testimony—should work out a percentage of the daily track profits to fund this program.

In our legislation, we ask for $5 million to be appropriated over the first 2 years for the development of the Federal enforcement program. From that time forward, race tracks would be assessed a daily fee proportionate to their size to provide funding.

Senator **Mathias**. Well, finally, Senator Pryor, one of the objections to your legislation that has been made to me is that it would so reduce the number of horses available that the tracks wouldn't be able to fill up a card. You have stated that no other major racing country in the world allows the prerace medication of horses. Do you feel that is an answer to this particular objection?

Senator **Pryor**. Mr. Chairman, sometimes we should put other issues above pocketbook issues. The question is not whether or not we will reduce the number of horses available to race, although I think I could fairly easily dispute that contention. I think, Mr. Chairman, that this is a cause in which this Congress has an opportunity to put a humane test to how we will eventually decide this issue. Humaneness, basically, over profits or pocketbook concerns. We should not only, in the wisdom of the Congress of the United States but in the feeling and compassion required by this particular issue, resolve this question in favor of a racing industry that protects the consumer and looks at the feeling and senses—I guess you might say the feeling and pain and suffering—of the animal itself. That basically, I think, should be our test.

Senator **Mathias**. Thank you very much, Senator Pryor. We appreciate your longstanding interest in this matter, and we will, I think, have a useful hearing today which should throw light on the whole subject.

Senator **Pryor**. Thank you, Mr. Chairman.

Senator **Mathias**. Our next witnesses will be a panel consisting of Mr. Marc Paulhus, field investigator, humane society, and Mr. Russell Gaspar, general counsel, American Horse Protection Association.

STATEMENT OF MARC S. PAULHUS, FIELD INVESTIGATOR, DEPARTMENT OF INVESTIGATIONS, THE HUMANE SOCIETY OF THE UNITED STATES; AND RUSSELL J. GASPAR, ATTORNEY, AMERICAN HORSE PROTECTION ASSOCIATION, INC.

Mr. **Paulhus**. Good morning.

Senator **Mathias**. Gentlemen, have we decided in which order you want to proceed?

Mr. **Paulhus**. Yes, Mr. Chairman. My name is Marc Paulhus and I will go first.

Senator **Mathias**. Let me explain the lights system here: You get 5 minutes on the green, and when the red comes, it will be shortly followed by the gavel, so you can judge your time accordingly.

Mr. **Paulhus**. In the interests of time, then, I will present a short history of the drug problem on racetracks and Mr. Gaspar will deal with the provisions of the Federal bill.

My name is Marc Paulhus and I work for the Humane Society of the United States as an investigator.

The HSUS is a national, nonprofit organization with 150,000 constituents. Additionally, Mr. Chairman, I have been asked to represent the interests of other organizations, most prominent of which is the American Humane Association, a federation composed of 2,000 local humane organizations.

The problem is twofold: Essentially, we have permissive medications which we believe are seriously abused, and illegal drugs which are used to manipulate the performance of racehorses. The permitted medications include analgesics, DMSO, steroids, hormones, and nonsteroidal anti-inflammatory drugs. As far as the analgesics and anti-inflammatories and steroids go, we are opposed to racing horses on these drugs, because they impair the perception of pain or the heightened sensitivity that the horse would have to the pain associated with an injury, and they greatly increase the likelihood of breakdown and destruction of the horse.

Now, this is not a matter of conjecture, Mr. Chairman. This has been demonstrated by veterinarians who have kept very accurate records, such as Dr. Caroline Gall, the State veterinarian for Waterford Park Racetrack in Chester, W. Va. Dr. Gall kept records for a period of time before phenylbutazone and Lasix were permitted and also kept statistics in the postlegalization period.

Her statistics revealed that there was a 120-percent increase in the number of horses which she personally had to kill as a result of racing breakdowns.

Now, Dr. Gall has stated in testimony before the West Virginia Racing Commission that this figure is actually much lower than it should be, because coincidental to that period of time that the drugs were legalized there was also a dramatic increase in the sale of horses for horse slaughter, and many trainers who had a horse with a broken leg who had suffered a breakdown in the racetrack and knew the animal was beyond hope, refused to have their horses destroyed by the doctor, and instead sent them to the slaughterhouse. So her figures are extremely conservative, and they represent a 120-percent increase.

Other jurisdictions have reported breakdown increases of attributed to prerace medications. A South Dakota racing commissioner claimed that breakdowns increased 2½ times or 250 percent after bute was legalized. A 400-percent increase in breakdowns was noted by sportwriter Russ Harris after drugs were legalized at Keystone Racetrack in Pennsylvania.

So there is not doubt in our minds, Mr. Chairman, that the racing of horses on these medications is cruel to the animals.

Also, there are jockeys on the backs of these horses, or riders behind them, that may get injured or killed in these spills. I am sure you are aware, Mr. Chairman, that the State of Maryland banned drugs on the very same day that they settled an out-of-court settlement with the family of a jockey who was killed in what was deemed to be a drug-related spill at Pimlico. The State of Maryland was sued, as well as the State Jockey Club, the track, and a number of other individuals, six in all.

On the day that the trial was scheduled to be heard, prerace drugs were banned in the State of Maryland.

Now, the use of illegal drugs for race-fixing purposes is an extremely serious problem, but I am afraid that I cannot give you an accurate indication of the extent of the problem. It is very wide. The problem here is that so very few States have adequate testing facilities, they take very few samples, one or two samples from a race, and they don't freeze and retest samples. The bottom line on freezing samples is this, Mr. Chairman: There are drugs which laboratories cannot detect. If the State does not freeze samples, and I think only one jurisdiction in the United States does, then those drugs can be used to fix races with absolute impunity. I, with the knowledge I have now, could fix any race in America if the State or the track does not freeze samples for periodic retesting.

Senator **Mathias**. Thank you very much. Mr. Gaspar?

Mr. **Gaspar**. Thank you. I am pleased to be here today on behalf of the American Horse Protection Association. Our association agrees with the description of the problem just outlined by the Humane Society of the United States. We agree, too, that horseracing is, in every sense of the word, an interstate business today, as Senator Pryor described and as you noted in your comments. Horses are shipped interstate to race and interstate betting is becoming more common.

Much of my written presentation discusses revelations made during the past 3 or 4 years about racehorse drugging. But Congress awareness of those problems goes back at least a decade. In 1973, the House Select Committee on Crime found ample evidence that illegal drugs were being used to fix horseraces. Those charges were echoed more recently in the testimony of Tony Ciulla, now a convicted race fixer.

The House, in 1973, recommended enactment of legislation to outlaw the use of drugs to fix races and to prohibit the possession of a number of articles, including drugs and syringes, on the racetrack. More recently many people in the racing industry have joined the call for vigorous and uniform drug prohibitions, better and more uniform testing procedures, better enforcement and stricter penalties for violators.

Those recommendations were embodied in the NASRC guidelines a couple of years ago. Had they been passed, they would have done a lot to cure these problems. But the NASRC guidelines are not mandatory and cannot be made mandatory, and therefore are being adopted only sporadically by the States. That is especially true of the quality assurance program, which is an excellent program, but unfortunately has only a few adherents.

S. 1043 achieves most of the objectives that the racing industry has called for, but it has one additional advantage: It can be passed, and it can be enforced.

Senator Pryor described the provisions of S. 1043 that would permit the establishment of trace levels of drugs that could be present on race day, as long as they were innocuous. S. 1043 also establishes a comprehensive and necessary program of prerace testing for blood and postrace blood and urine testing.

The purpose of these tests is twofold: The first is to try to screen out as many drugged horses as possible before they enter the starting gate. That is the only available protection for a drugged horse or for the bettor. The thorough testing afterwards is necessary, first of all, because of the time constraints of prerace testing prevent it from catching everything. Second, and more important, it provides an opportunity to freeze samples of blood and urine. There are many drugs used today that cannot be detected under available testing methods. The only way to deter the use of those drugs is to freeze samples and provide that they can be tested in the future so that violators, once those drugs are discovered, can be prosecuted. Unfortunately, the NASRC guidelines don't contain that provision.

The bill provides for funding for improved testing, which is absolutely necessary. There will be witnesses here before you today, including Dr. George Maylin, who can tell you how badly needed additional funding and additional efforts for testing are.

The bill provides penalties for a series of criminal violations. The principal ones are the drugging of a racehorse, knowing the horse will be run while on drugs, and entering a horse in a race knowing that it has been drugged. There are also criminal violations for the willful failure of racetrack management to disqualify a drugged horse or to prohibit a horse from running once it has been suspended from racing.

There are other less drastic remedies, including the disqualification of the horse itself and perhaps the suspension or disqualification of owners or trainers from racing.

These solutions are necessary, Mr. Chairman. They are consistent with the desires of the industry, and they can be enacted. We submit, Mr. Chairman, that the time has come to enact them.

Senator MATHIAS. I thank you both.

You both emphasized the extreme importance of the laboratory procedures, and I would agree with that from the practical experience I have had in this field.

What do you see as the development of new drugs which require new laboratory facilities, new laboratory techniques that bear upon this problem?

Mr. PAULHUS. Mr. Chairman, most State laboratories would be considered primitive if they were compared to the drug detection laboratory at Cornell University. We need training programs for laboratories. We need an exchange of information on drug detection and methodology as recommended by the NASRC quality assurance program. But the problem with the NASRC quality assurance program is this: If the labs are incompetent, if they lack adequate equipment, funds, chemists, or whatever, the NASRC has no authority to make the necessary changes and improvements. Compliance is strictly voluntary.

The drug detection problem more frequently rests with the State racing commission being unwilling to allocate the money necessary to purchase the state-of-the-art equipment or to obtain enough test samples to develop patterns on violators. We have found that States are extremely reluctant to detect drug violators.

To give you an example, when they developed a test for banamine in Pennsylvania, an illegal drug being used in Pennsylvania, the stewards called in all the veterinarians and said, "Listen, guys, we are going to start testing for banamine, so if you have horses that you have given it to, you had better have them scratched." Twenty-five percent of the horses were scratched. Every single veterinarian admitted giving the illegal drug to racehorses.

What the racing commission could have done was simply not announce that they had developed a test for this drug, apply it to all the samples over a period of 2 or 3 weeks, build up a pattern of who these dishonest trainers and veterinarians were, and take away their licenses, or give them heavy fines or suspensions to deter them in the future.

The techniques of freezing samples for future analysis was first employed in Illinois through the initiative of one of the chemists there. John McDonald froze samples, because he understood there were illegal drugs being used, and the veterinarians and trainers were laughing at his inability to find them. For a couple of years, he froze samples. He came up with 82 cases of a very powerful narcotic stimulant, apomorphine, administered to racehorses. This occurred in late 1974. To this day, the State of Illinois has not prosecuted those apomorphine cases. It would appear that strong enforcement is not in the best interests of the State's business relationship with racing. They would not like any scandals of major proportions to surface. That is no way to run a law-enforcement operation.

Senator MATHIAS. You are a field investigator. What kind of facilities do you observe as you travel around various tracks?

Mr. PAULHUS. I am very interested in the security provisions at racetracks; to test that out, I find out whether they are going to stop me as I walk into the backstretch area. I have never been stopped, Mr. Chairman, by the guards. I could have smuggled in lots of drugs. I have gotten through at Waterford Park, Santa Anita, Pimlico——

Senator MATHIAS. What about the laboratory equipment? Do they still, as they did in the past, operate out of trailers and small shacks tacked onto the barns and other rather primitive facilities, or do they have the kind of scientific equipment and environment in which they can do an adequate job?

Mr. PAULHUS. I can answer that in a general sense. I have been to relatively few track and State laboratories. I do know that some are adequately equipped. Typically, they would need such devices as a mass spectrometer, a gas chromatograph, but I think Dr. Maylin may be asked that question more effectively. What I do know is that a number of States do not possess mass spectrometers, a number of States do not have the ability to do other tests. For example, few States have the capability of testing with radioimmuno assay methodology, which uses a radioactively tagged antibody to combine with a specific drug in the sample and you get a hit when the sample is passed through a scintillation counter. A lot of States don't have this technology, and how they test for certain illegal drugs is beyond me. I suspect they don't.

Senator MATHIAS. You have both called for the dedication of State resources to do an adequate job.

The Department of Justice estimates that it would cost the Drug Enforcement Administration $50 million to implement this program. Of course, if you looked at it across the 50 States, that would be $1 million a State, and that sounds like a lot of money in the aggregate.

But what is your estimate of cost?

Mr. PAULHUS. If the program was run by the Federal Government, which is not the intent, really, of this act, but if all the testing were done by the Federal Government, I firmly believe it could be done a great deal cheaper than is being done by the States.

A reason is this: A lot of States have a short racing season, and for them to set up a mobile testing laboratory for a 60-day race meet at Oak Lawn Park in Arkansas is an enormous investment. However, if the Federal Government owned that mobile laboratory, they could simply truck it to another location to be used as the racing seasons changed. So less equipment would be necessary. The Federal Government could employ, for example, regional laboratories for horserace testing and research. They could have two or three regional laboratories in different sectors of the country instead of 29 State laboratories.

Senator **MATHIAS.** Do you know, and this is really beyond the scope of your testimony, but do you know the aggregate cost of State enforcement?

Mr. **PAULHUS.** Well, I don't know what they are actually paying. I know what the programs in the best States cost. The worst States are paying a couple of hundred dollars per track per day.

Senator **MATHIAS.** What are the best States?

Mr. **PAULHUS.** Say, the State of New York, and you might want to check this with Dr. Maylin. I think their cost, which includes research money, is about $1,000 per racing day, or $1,000 per track per day. That includes prerace testing, postrace testing, and research. In Pennsylvania, it costs approximately $600 per track per day.

Senator **MATHIAS.** I think what we ought to know before these hearing records are closed is what the aggregate costs of the States is today for the enforcement program. What aggregate revenues to the States in racing are, and to compare that with the Department of Justice estimates of the $50 million cost of this bill.

So I lay that out as a challenge to the other witnesses who will follow you, and if no one here is prepared to give us those figures, I will ask staff to determine the figures.

Mr. **PAULHUS.** One figure I have available, the money returned to the States as their portion of the betting dollar was $445 million last year. That is out of several billion dollars actually wagered.

Senator **MATHIAS.** That is the States' take?

Mr. **PAULHUS.** Yes, the States' take, $445 million.

Senator **MATHIAS.** So even if the Department of Justice was accurate in their estimate——

Mr. **PAULHUS.** I think they are way off.

Senator **MATHIAS** [continuing]. But assuming they are accurate, you are speaking of not more than 10 percent of the States' take?

Mr. **PAULHUS.** Yes, Mr. Chairman. Incidentally, I have some things I would like to submit for the record, the status of the States, and so forth.

Senator **MATHIAS.** Any portion of your material will be included in your testimony.

[The prepared statements and additional submissions of Messrs. Paulhus and Gaspar follow:]

PREPARED STATEMENT OF MARC S. PAULHUS

Mr. Chairman, members of the subcommittee, I'd like to thank you very much for calling these hearings and for allowing me to be here today. My name is Marc Paulhus, and I am a field investigator for The Humane Society of the United States, a national, non-profit charitable organization with a constituency of more than 150,000. Today I am also representing The American Humane Association, a trade organization of more than 2,000 local humane societies.

Mr. Chairman, I come before you today to speak in support of S. 1043, which I consider a most worthy piece of legislation that would effectively deal with the drug problem currently afflicting America's horse racing tracks. As you know, this is not an issue which is new to me. I have an educational background in animal science and I have spent approximately the past 4 years investigating the problem of drug use at the tracks. I have delivered expert testimony on this issue before racing commissions in 13 states. I have authored articles on the subject for numerous trade publications, and appeared as a speaker before the American Horse Council, the American Association of Equine Practitioners, and the Horsemen's Benevolent and Protective Association. I have examined scientific reports from veterinary texts and journals; attended meetings, trials, hearings, and seminars; and interviewed countless trainers, owners, veterinarians, track officials, breeders, government investigators, and racing chemists. I think it is fair to state that my conclusions and recommendations are based on substantiated facts and qualified professional opinions.

I think there are few people in this room who would disagree with me when I say that the abuse of permitted medications and illegal drugs is one of the most serious problems facing racing today. Indeed, Mr. Chairman, if you did not agree with the statement we all would not even be here. Yet recognizing that there is a problem and actually taking steps to solve that problem are two very different things, which we have all seen.

One part of the problem has to do with the misuse and overuse of permitted medications. These so-called "therapeutic medications," including phenylbutazone and similar non-steroidal anti-inflammatory drugs, hormones, anabolic steroids, furosemide (Lasix, a potent diuretic), were legalized in nearly all of the nation's racing jurisdictions during the last decade. The industry had misplaced hopes that by allowing the pre-race administration of certain drugs, they could discourage the use of more dangerous substances and illegal stimulants, narcotics and tranquilizers. Unfortunately, this has not come to pass.

Medication proponents argued that the pre-race use of drugs like bute and Lasix would benefit race horses. Yet we know that bute, contrary to being 'just like giving a horse aspirin' as many have claimed, is a potent drug not devoid of side-effects, some of them serious. Racing a horse on bute can be even more dangerous. The manufacturer of the drug states that its product cannot cure the condition that is making the horse sore or lame. In fact, by reducing the inflammation, bute can actually delay the normal healing process. And, by suppressing the pain and heightened sensitivity associated with an injury, bute can increase the chances of the horse pushing itself past the point of no return, resulting in breakdown and even death. This is not conjecture. The relationship of pre-race bute to breakdowns has been proven by Dr. Caroline Gall, the State

Veterinarian at Waterford Park in Chester, West Virginia and others as well. Dr. Gall's records compared the number of horses that had to be destroyed annually at Waterford before bute was legalized with the total destroyed in years following the adoption of permissive medication. The number of horses Dr. Gall personally killed increased by approximately 120 percent. I should point out that the increase would have been even higher but for the coincidental rise in demand for horsemeat for human consumption overseas. This prompted many trainers to refuse trackside euthanasia for hopelessly injured racehorses so they could sell the animals to a slaughterhouse. Furthermore, a horse raced on bute runs the liklihood of inflicting further injury to itself, so even if it does not break down, it may end up permanently crippled, its racing career ended, perhaps prematurely.

The arguments surrounding the use of Lasix are even more circular. Lasix is a strong diuretic, approved only for the treatment of edema, or water retention. On the racetrack, however, Lasix is most commonly used for the treatment of pulmonary hemmorhage manifested through bleeding from the nose. Yet Lasix cannot and does not cure the underlying problem that causes the horses to bleed, and recent research conducted by the University of Pennsylvania has shown that the use of Lasix does not significantly alter bleeding status. What's more, far more horses run on Lasix in states where it is permitted than are "confirmed bleeders." Why? Let me quote here from a paper presented by Dr. Robert L. Hamlin before the American Association of Equine Practitioners: "It is ludicrous to consider the compound (Lasix) is used only to prevent epistaxis (internal bleeding). It is obvious to me that the compound is given either because the veterinarian or the trainer or both consider the compound to facilitate performance." Clearly, there is no need for Lasix, as many trainers have claimed (and threatened to strike for). In Arizona, as well as other states that have prohibited the use of this drug, horses that once received a race day injection of Lasix are competing and winning races without it. Reported the Arizona Republic on March 1 of this year: "In fact, the number of horses that have suffered bleeding during a race or have had to be destroyed after a race has been reduced substantially since drugs were banned in April 1981, Arizona Racing Commission members say."

Medication proponents argued that pre-race medication would produce bigger fields for races. Yet the fields today are no larger than they were before the drugs were permitted, despite the dramatic increase of available runners over increased racing dates. Statistics compiled by the Thoroughbred Record show that while the average field in 1961 (when drugs were illegal) was 8.91 runners per race, by 1979 that number had dropped to 8.7.

Proponents also argued that medication would allow the horses to run more often. Yet there is no evidence to support the assertion that permissive medication programs are extending the racing life of horses--not in starts per year, or in starts over a lifetime. According to statistics published in The Blood Horse magazine, the number of starts per horse per year fell from 11.95 in 1961 to 9.48 in 1979.

Clearly, the use of permitted medications at the tracks has been a dismal failure. Lenient medication policies have not accomplished any of the claims that were made for them and have only added to the perceived impression by the betting public that the use of any drug in a racehorse means that the race is fixed. As you stated in 1979 Mr. Chairman: "Such drug treatment is deeply inhumane to the horses, and, in addition, is unfair to the bettors, since the track records are worthless without accompanying drug records." (Congressional Record; November 9, 1979; page S 16484).

Even more serious, and perhaps just as pervasive as the misuse of medications on the backstretches of America's racetracks is the abuse of illegal drugs, many of them class II narcotics. Convicted race fixer Anthony Ciulla told Sports Illustrated magazine in an interview that he "experienced with countless drugs," although more often he drugged the horses to lose than to win. According to the interview, Ciulla obtained "the latest drug that a chemist bootlegged from drug laboratories." True, Ciulla is no longer drugging horses, since he was apprehended by the FBI and placed under the Witness Protection Program. But evidence has shown that others have moved in to take his place. I'd like to be able to put a figure on the amount of illegal drugs used at the tracks every day, but with currently inadequate laboratory facilities, no freezing of samples, no prescription pad checks, and a lack of other crucial monitoring techniques, no one can know for sure how severe the problem really is.

What we do know is that it is serious--so serious that even with woeful policing and testing methods, I can cite the following examples of illegal drug scandals in the past 2 years:

--On February 15, 1980, Ray Kerrison reported in the New York Post word of a new and potent drug called Acupan that was being used by "a small group of racing stables." According to Kerrison, Acupan "is one of the most powerful analgesics known," and that is is "potent and undetectable."

--On June 25, 1980, a horse named Rampo was made to forfeit a 1st place purse won at Maryland's Bowie Race Course when its urine test indicated the presence of the illegal drug diphenhydramine.

--On September 27, 1980, after it was announced that officials at Pennsylvania's Keystone Race Track would begin testing that day for Banamine, an illegal painkiller, all of the tracks' veterinarians admitted to having administered the drug, and 20 of the day's 90 entries were scratched.

--In November of 1980, the (New Mexico) Governor's Organized Crime Prevention Commission released a scathing report of illegal drug use at that state's tracks. Says the report: "The administering of illegal drugs or medication to racehorses is one of the most common illegal practices occuring at the two tracks investigated. Horses are being drugged or medicated on racing days as a common practice on behalf of owners, trainers and veterinarians...Some veterinarians observed were indiscriminate as to what drugs they dispensed and to whom they dispensed them. An intense effort, involving collusion between veterinarians, owners and trainers, exists for purposes of successfully using drugs which will not be detected in testing procedures...Trainers have also been observed during this investigation to be in possession of drugs, medications and syringes in their tack rooms and vehicles. In one instance a horse had a large welt on its neck with blood oozing from it, indicating a recent injection. This welt was so obvious that it was the object of comment in the backstretch. The horse won its race that day." The report went on to describe the equally serious problem of human drug abuse on the backstretch. "Some jockeys have been so under the influence of drugs that they could not find their mounts and had to be assisted to their horses in the paddock."

--On April 14, 1981, a Maryland trainer was suspended after a vial of the illegal drug Ritalin was found in his car. According to the ruling, "Ritalin is a stimulant. It has no medicinal value in the treatment of a horse."

--On April 22, 1981, a New Mexico racehorse owner, disciplined by the Racing Commission 15 times since 1970, was fined a mere $1,000 and suspended for just 30 days when a search of his trailer uncovered "vials of amphetamines and painkillers."

--On August 17, 1981, The New York Post reported that the winner of a race at Saratoga was disqualified when a urine sample revealed the presence of Phenothiazine, a tranquilizer, in his system.

--On November 15, 1981, a Florida trainer began serving a 6 month suspension after running three horses under the influence of the illegal narcotic Sublimaze in 1978.

--On December 6, 1981, it was reported that Tarberry, a second place finisher in a race at Aqueduct the week before, was disqualified after the presence of procaine, an illegal painkiller, was detected in his urine sample.

Yet these are but the very tip of what is almost assuredly a very large iceberg. It is estimated that there are tens of thousands of chemical substances which could be illegally administered to racehorses in attempts to manipulate performance. Yet even the best testing laboratories are not capable of identifying all of these substances. Some drugs are not found because there is no test for them, or the lab does not screen for them on that particular day. Other times drugs go undetected because they can be found only in blood and not in urine samples, or vice-versa, and the track lab only takes one. Still more are missed simply because in most states, only those horses that finish in first or second place are tested at all, despite the fact that Tony Ciulla has stated on several occasions that it was much easier to drug a horse to lose than to juice it up enough to win. Complicating matters still further is that when you inject substances like bute and Lasix together with an illegal drug, they may interfere with the detection of prohibited substances in the test sample, sometimes enough for legal drugs to act effectively as masks.

There are ways that racing jurisdictions can address these problems in a more effective manner, if they truly place the control of drugs at the track as a priority. For example, when Illinois chemist John McDonald became aware that some vets in his state were using drugs that he could not detect, he used his own initiative to freeze the suspicious samples while he worked on a test. Several months later, when a test had been perfected, McDonald thawed the samples, tested them, and found 82 positives for Apomorphine, a powerful narcotic, and, at low dosages, a stimulant. Unfortunately, those positives were never prosecuted, due to the racing commisison's weak-kneed claims of a lack of legal resources necessary to prosecute such a large number of cases.

Indeed, Illinois is not alone in its reluctance to prosecute its drug positives. In a number of other racing states, it would appear that avoiding a scandal is preferable to upholding laws and regulations. Again, at Keystone in 1980, vets and trainers were warned in advance that the laboratory would begin testing for Banamine, and the 20 horses (of the 90 scheduled to race that day) were allowed to scratch and save face for everyone. In Colorado, the racing commission actually publishes a list of drugs that are illegal and that the laboratory can detect. The obvious implication is that if it isn't on the list, it can be used with impunity. In New Mexico in 1978, six samples taken from horses running on the day of the American Futurity, the nation's richest quarter horse race, showed up positive for Sublimaze. No action was ever taken.

It's not hard to understand the reasoning for this failure to prosecute. After all, the states are business partners in racing. If there's a big drug scandal, the reasoning goes, bettors will lose faith in the fairness of the sport, and track receipts will go down. That takes money out of the state's pocket.

Since we brought these issues to our members and to the public 4 years ago, attempts have been made by the states to address these problems. Certainly, when the National Association of State Racing Commissioners issued their no-medication guidelines in 1980, no one welcomed them more enthusiastically than The Humane Society of the U. S. Indeed, we spent many thousands of dollars to send our representatives to racing commission hearings to testify in favor of their adoption. And, when the guidelines were enacted in most of the racing states it seemed that racing was finally on its way to solving its drug problems once and for all. At that time, we viewed the federal bill as a vehicle to provide impetus to the states to enact their own programs.

However, in every single state where we testified, the Horsemen's Benevolent and Protective Association fought to retain liberal drug rules. If the racing commission denied their plea, they threatened boycotts, filed suits, and in some instances lobbied the legislature to overrule the Racing Commission. Groups which supported the NASRC guidlines seldom stepped forward to testify in favor of adoption. The Jockey Club, American Horse Council, Thoroughbred and Breeders Association, Thoroughbred Racing Protective Bureau and NASRC were conspicuously absent when their public stand would have convinced us and others of their genuine commitment.

Unfortunately, as of today, the situation has once again begun to deteriorate. No-drug rules have recently been overturned in Kentucky, California, New York, Florida, Maryland, West Virginia, and several other states have weakened theirs. At this time, there is not a single state in full compliance with the NASRC's medication guidelines and participating in their Uniform Drug Testing and Quality Assurance Program. The long sought uniformity has proven to be impossible to obtain on a state-by-state basis.

We believe that the industry has had more than sufficient time to adequately deal with these problems and clearly has shown itself not up to the task. We believe that if the industry truly seeks a solution to pervasive drugging problems, it will view this proposed legislation as a vehicle to accomplish that goal. S. 1043 would mandate the adoption of a uniform drug code, assuring that the game would be played by the same rules everywhere. What the NASRC attempted to accomplish through persuasion could be required only through federal legislation.

Like the NASRC guidelines, the legislation would prohibit the administration of any "substance foreign to the natural horse" that is deemed pharmacologically effective at the time of a race. Yet, the bill would wisely allow for the presense of trace levels of legitimate therapeutic medications providing that the permissible level is pharmacologically "innocuous." In this regard, the federal bill is less restrictive than the NASRC guidelines, which only permit small quantities of phenylbutazone at 2mg/ml plasma.

The federal bill seeks also to address the problem of racing unsound horses by prohibiting the running of any horse that has been determined to be "numbed" during a pre-race veterinary exam of the animal's limbs. This certainly is necessary to protect the horse and also its rider or driver. As you perhaps know, many techniques can be employed by trainers and grooms who wish to race sore or injured horses. Ice baths, alcohol freezes, procaine or alcohol nerve blocks, and surgical neurectomies of a horse's legs are used in lieu of drugs to enable an unsound horse to appear sound. These horese would be screened out during a pre-race veterinary examination if it were determined that they lacked appropriate feeling in their limbs. The use of linaments, leg paints and even icing that does not impair the animal's normal perception would, of course, be permissable. This is an important part of the Federal legislation which the NASRC standards fail to address.

Another critical provision of S. 1043 would call for pre-race testing at all parimutuel race tracks. This has proven to be an effective deterrent to the use of illegal drugs, and it is undoubtedly the best way of protecting the wagering public because it would eliminate many drugged horses before the race is run. Pre-race testing requiring the taking of blood samples from all horses also reduces the likelihood that race fixers can successfully escape detection by tranquilizers or depressants to slow down a horse.

Pre-race testing has been required at all tracks in the state of New York for the last two years and for harness racing in Ohio and Pennsylvania. After extensive hearings on the organized criminal influence in horseracing, the House Select Committee on Crime recommended in 1973 the adoption of "pre-race testing as well as the post-race urinalysis on winning animals and other entrants selected at random. Federal funds through the Law Enforcement Assistance Administration to help defray the cost of mobile testing laboratories should be made available." (House Report No. 93-326; page 83.)

But pre-race testing is not a panacea for all drugging problems. Unless the horses are placed in a detention barn following the taking of samples, and guarded until post time, there is no guarantee that they could not still be drugged or otherwise tampered with. The fact that New York detects approximately 50 percent of its positives from post-race samples is one indication of this security problem. This legislation attempts to remedy this loophole by requiring that horses be held in a "safe and secure" detention area subsequent to the taking of samples.

I think it is also appropriate to point out that I view the New York pre-race testing programs as somewhat hypocritical. When a positive is detected through pre-race testing, the horse is scratched from the race, but generally no prosecution ensues, nor are penalties assessed. The intent to cheat may have been the motivating factor in using an illegal drug, but if the culprit has the good fortune of getting caught before the race, he gets off scott free. This practice is contrary to any reasonable standard of law enforcement. It is, however, just one more example of how the state regulatory authorities blatantly accomodate the dishonest participant.

For years, the racing industry has acknowledged the inadequate penalties meted out to those who violate the rules of racing. Punishments for the illegal use of performance-altering drugs often result in fines of no more than a couple of hundred dollars and/or a two week suspension of the trainer. At one meeting I had with horsemen in West Virginia, several individuals laughingly admitted that it had been the policy of the state racing commission to allow suspensions to be served after the racing season was over. But even if a short suspension is legitimately served, the horses may continue to race under the "direction" of an assistant trainer, while the violator enjoys a brief, unscheduled vacation. The federal bill would correct these inconsistencies by insuring accountability to an unbiased oversight authority.

Furthermore, the federal bill provides that a suspension handed down in one state would be honored in all the racing jurisdictions. I know that the NASRC has tried to achieve this type of interstate cooperation, but it has not succeeded.

Some critics of the federal bill claim that the penalties are much too severe. Obviously, they haven't read the legislative carefully or they would realize that both administrative and criminal penalties are expressed as maximums. There are no minimum fines, suspensions or jail terms and wide discretion is afforded to regulators.

One unique provision of this legislation is that it would allow for the suspension of the horse, if such action is deemed appropriate. I think this is especially important in instances where the injudicious use of drugs has jeopardized the health and safety of the animal. The horse probably would benefit from a opportunity to rest and recuperate and a clear message would be sent to the horse's owner about the care, or lack thereof, his or her animal is receiving.

Perhaps the single, most important requirement of this bill is that it mandates the freezing, saving and future retesting of some blood or urine samples. This is the only way to deter the illegal use of drugs which cannot be detected by current methodologies in the world. It is a simple matter for the crooks to stay one step ahead of the regulating authorities. In fact, Mr. Chairman, with what I know about potent, new synthetic narcotics, I am confident I could drug any horse in any race in America and get away with it--unless the racing jurisdiction froze samples.

Most of the bad press this legislation has received in industry publications surrounded the cost to enact and operate the federal program. But, contrary to industry claims, this bill would not impose burdensome regulations on the racetracks nor would it be so expensive to carry out that many tracks would be put out of business. In fact, by most standards, the program the legislation outlines is comparatively simple and inexpensive. The bill calls for a start-up appropriation of $5 million, low by anyone's standards. All future operating costs would be assessed by a small fee from each track's daily racing receipts. In Pennsylvania, where the state operates both pre- and post-race testing, the average cost is about $600 per track per day. In New York, which has the best testing program in the nation, the costs only run about $1,000 per track per day. It is important to remember that this is from daily racing handles that run from the hundreds of thousands of dollars per day at smaller tracks to literally millions at the big tracks like Belmont or Aqueduct. I should note that the creation of regional cooperative post-race testing facilities would reduce these modest costs even further. I find it difficult to believe that the tracks are so reluctant to spend a small amount to insure the very foundation on which their sport rests--the trust of the bettors. I am confident that implementing this program will bring even more patrons out to the tracks, making up for the costs of running a competent drug program that everyone acknowledges is necessary.

Furthermore, the legislation is written in a way to keep the federal presence in racing as minimal as possible. For example, Section 7 provides that any state that "enacts a comparable program to prohibit the drugging and numbing of racehorses" may apply for an exemption from federal administration. Several of the racing states, including New York, Florida, Maryland, Arkansas, and a few others would have to make only minor alterations in their current programs to meet the requirements of the federal program.

Finally, the bill provides that the program end eight years after its enactment, to assure the industry that this is not being used as an excuse for the federal government to take over the sport of horse racing. It hardly represents the massive intrusion into state business that it has been characterized as doing.

So we see, Mr. Chairman, a problem of the racing industry that is deeply rooted in state revenues and in the simple, yet complex facts of economics. What is called for here is a solution to the racing industry's drug problem that will take pressure off racing states to compromise their good intentions. We ask for a measure that will create enforceable across-the-board standards for the use of drugs in racing. We seek a measure that will give race horses better odds of surviving track life.

The Humane Society of the United States believes that S. 1043 is the answer to the problems aired here today. Since states have been unwilling or unable to enforce decent standards of drug use, we feel that the federal government has the obligation to assist in ridding the racing industry of drugs; S. 1043 is a clean-up bill of sorts.

The Humane Society of the United States firmly believes that it is cruel to administer medications to unsound horses to enable them to race when they should be resting, and that using illegal and dangerous narcotics to fix races is even more reprehensible. For the sake of the industry, for the sake of the bettors, and, perhaps most importantly, for the sake of the horses, we urge this subcommittee to report out this bill promptly and with no weakening amendments. Thank you.

MAY 1982

STATUS OF RACING JURISDICTIONS CONCERNING DRUG CONTROL RULES

STATE	PRESENT RULES	COMMENTS
ARIZONA	NIC--Permits only bute	Not in Quality Assurance Program Blood is not routinely tested. Trace levels for bute are excessive. 5 mg/ml plasma - 20 mg/ml urine
ARKANSAS	NIC--Prohibits all drugs Very close to compliance	May join Quality Assurance Progr. Blood testing is not conducted; however, penalties are severe, and trace levels are not allowed
CALIFORNIA (harness)	NIC-- Permits many different drugs including bute, Lasix, steriods, hormones and DMSO	Not in Quality Assurance Program No blood testing - new rule is very permissive; massive levels allowed in urine. 165 mg/ml urine
COLORADO	NIC--Permits many different drugs including bute, Lasix, and steriods	May join Quality Assurance Progr First state to legalize pre-race medication in 1962; have very permissive rules. No intent to change.
DELAWARE (thoroughbred)	NIC--Presently allows Lasix	Follows NASRC guidelines for but but has more permissive Lasix rules.
DELAWARE (harness)	NIC--Bans all drugs by rule: Very close to compliance	Not in Quality Assurance Program Does not take blood samples nor comply with all NASRC guidelines.
FLORIDA (harness)	NIC--Permits many different drugs including bute, Lasix, and steriods	Not in Quality Assurance Program In 1980, state legislature banne drugs unanimously, but was weakened by amendment in 1982. Excessive trace level - 140 mg/ml urine
IDAHO	NIC--Bans all drugs by rule	Not in Quality Assurance Program Does not routinely test blood, nor comply with NASRC guidelines.
ILLINOIS (thoroughbred)	NIC--NASRC rule adopted May 17, 1982 Very close to compliance	Not in Quality Assurance Program Horsemen have threatened to boycott.
ILLINOIS (harness)	NIC--Prohibits all drugs	Not in Quality Assurance Program Rule prohibits drugs within 72 hours (which is difficult to enforce and not approved by NASRC rules).
KENTUCKY (thoroughbred)	NIC--Permits many different drugs including bute, Lasix, and steriods	Not in Quality Assurance Program Proposed ban was overruled by Legislative Research Commission.
KENTUCKY (harness)	NIC--Currently allows Lasix	Not in Quality Assurance Program Racing Commission decided to ban Lasix but was overruled by Legislative Research Commission.
LOUISIANA	NIC--Currently allows Lasix	Not in Quality Assurance Program Blood is not routinely tested. Does not follow all NASRC guidelines.

MAY 1982

STATUS OF RACING JURISDICTIONS CONCERNING DRUG CONTROL RULES

STATE	PRESENT RULES	COMMENTS
MAINE (harness)	NIC--Prohibits all drugs by state law	Blood is not routinely tested. Does not follow all NASRC guidelines.
MARYLAND (thoroughbred)	NIC--Currently allows Lasix	Not in Quality Assurance Program Blood is not routinely tested; No pre-race inspection. Does not follow all NASRC guidelines.
MARYLAND (harness)	NIC--Prohibits all drugs	Not in Quality Assurance Program Blood in not routinely tested. Does not follow all NASRC guidelines.
MASSACHUSETTS	NIC--Permits bute only	Not in Quality Assurance Program Massive level of bute allowed; Does not test blood; 200 mg/ml urine Does not follow other NASRC guidlines.
MICHIGAN	NIC--Permits bute, Lasix, and steriods	Not in Quality Assurance Program Blood is not tested; No quantitative limits on legal drugs.
MONTANA	NIC--Prohibits all drugs	Not in Quality Assurance Program Blood is not tested. Does not follow all NASRC guidelines.
NEBRASKA	NIC--Permits bute, Lasix, and steriods	Not in Quality Assurance Program Do not intend to impose further drug restrictions; Blood is not tested.
NEW HAMPSHIRE	NIC--Permits bute	Not in Quality Assurance Program Blood is not tested. Does not follow all NASRC guidelines.
NEW JERSEY	NIC--Presently allows Lasix at 3 hour time limit	No plans to impose further drug restrictions; blood is tested for harness horses only.
NEW MEXICO	NIC--Prohibits all drugs by rule	Not in Quality Assurance Program Blood is not tested. Does not follow all NASRC guidelines.
NEW YORK	NIC--New rule permits DMSO at post-time, effective levels of steriods	Has most comprehensive testing program in nation; Pre-race veterinary inspections and blood testing. Does not follow NASRC guidelines
OHIO	NIC--Prohibits all drugs	Allows bute at 4 mg/ml plasma Program is similar to New York, however pre-race testing has been discontinued.
OREGON	NIC--Permits use of bute, DMSO, and conjugated estrogens	Not in Quality Assurance Program Blood is not tested. Does not follow NASRC guidelines

MAY 1982

STATUS OF RACING JURISDICTIONS CONCERNING DRUG CONTROL RULES

STATE	PRESENT RULES	COMMENTS
PENNSYLVANIA (thoroughbred)	NIC--Presently allows Lasix	Blood is not routinely tested at all tracks. Does not follow all NASRC guidelines
PENNSYLVANIA (harness)	C--Prohibits all drugs	Drug rule and laboratory testing is generally good.
SOUTH DAKOTA	NIC--Permits bute and some other medications, but not Lasix	Not in Quality Assurance Program Blood is not routinely tested. Does not follow NASRC guidelines.
WASHINGTON	NIC--Permits bute and Lasix	Not in Quality Assurance Program Blood is not routinely tested. Does not follow NASRC guidelines.
WEST VIRGINIA	NIC--Permits bute, Lasix and steriods	Not in Quality Assurance Program No drug rule was reversed by Legislature. Blood is not tested. Does not follow NASRC guidelines
WYOMING	NIC--Permits Lasix and other substances	Not in Quality Assurance Program Does not follow NASRC guidelines.

SUMMARY

NIC-- 31

C-- 1

N.I.C.: Not In Compliance -- Refers to jurisdictions whose drug rules do not meet the standards of the NASRC guidelines nor the minimum standards set forth in the proposed federal legislation.

Q.A.P.: Quality Assurance Program -- Means NASRC uniform drug testing and Quality Assurance Program.

C: Compliance -- Refers to jurisdictions whose rules are equal to or closely approximate the NASRC standards and/or the proposed federal legislation.

NASRC GUIDELINES: Rule proposed by the National Association of State Racing Commissioners permits trace levels of bute in the blood samples at 2 micrograms/milliliter plasma, prohibits all other drugs including Lasix, steriods, DMSO, hormones, etc. NASRC rule requires pre-race veterinary inspections, post mortem examinations of horses that breakdown, and blood testing.

NOTE:
At the present time, there are twenty-seven (27) states that have racetracks and allow parimutuel gambling. This tally totals thirty-two (32) because five states have different rules for harness and thoroughbred racing.

[From the New York Daily News, Apr. 20, 1981]

CRISIS—Part I

SCANDALS POISON HORSE RACING

EDITOR'S NOTE.—United Press International's investigative reporter Gregory Gordon spent 10 weeks looking into the horse racing industry, interviewing more than 80 persons to uncover some of the causes of the recurring scandals at the tracks and to learn why government agencies have failed to clean up the sport. This is the first of his five-part series.

(By Gregory Gordon)

Horse racing is the sport of kings. The industry's leaders—aristocratic families with names like Vanderbilt, Whitney and Mellon—own million-dollar breeding farms. Next week some will sit in box seats hoping for the glory of seeing their horses win the Kentucky Derby.

It is perhaps ironic that a sport dominated by figures of wealth and stature is so racked with corruption.

United Press International spent 10 weeks looking at the horse-racing industry in more than a dozen major racing states to study the problems of a sport on which more than $12 billion is bet each year.

The findings indicate that episodes such as the discovery of the illegal drug Clenbuterol on East Coast tracks or the arrest of Tony Ciulla, an admitted race fixer, are only symptoms of a cancer eating away at the sport. Racing's overseers—state racing boards—largely have failed to respond.

Victims are millions of Americans who are cheated out of a fair chance at betting windows, drugged horses who run lame until their legs snap and they must be destroyed, and jockeys who are severely injured when unfit mounts collapse without warning.

And the ultimate victim could be the state governments that reap hundreds of millions in revenues—revenues that could shrink with declining track attendance unless reforms preserve racing's integrity.

Attendance on a typical race day already has declined. Although 54 tracks belonging to the Thoroughbred Racing Association increased the number of racing days from 6,242 in 1970 to 7,515 in 1979, or 20.4 percent, attendance at those tracks rose only from 51.5 million to 55.1 million, or 7 percent.

The trend toward year-round racing has pressured trainers to use pain-killing drugs to keep sore or injured horses running. Carolyn Gall, state veterinarian as Waterford Park in Chester, W.Va., said the number of breakdowns—crippling injuries—that forced destruction of horses doubled from 30 to 60 a year after the anti-inflammatory drug butazolidin was legalized.

Ciulla, a criminal mastermind with a ninth-grade education, said it was a cinch to corrupt America's most popular spectator sport. He boasts about fixing 2,000 horse races over a 15-year period.

"I'd send one of my intermediaries to a jockey," said Ciulla, now living with a new identity under the federal Witness Protection Program. "He'd say, 'Do you like that horse you're riding today?' The jockey would say yes or not."

Then, Ciulla said, the intermediary would ask if the jockey would like to "hold" his horse—pull in the reins while pretending to whip him to a fast finish. Many jockeys would go along.

"You've got to bear in mind that you can take a race where the purse is $20,000 . . . , and the jockey might end up with about $500 or $600 for winning," Ciulla said. "Now here I'm telling him, 'All right. I'll give you $5,000 to get that bum beat.'"

The hulking, 320-pound Ciulla was arrested in 1975 and convicted of conspiracy. Fearing his accomplices would kill to silence him, he agreed to testify in return for protection—and blew open racing's biggest scandal.

He provided evidence leading to convictions of more than 50 jockeys and trainers and implicating scores of others, including top-name New York riders Angel Cordero Jr., Jorge Velasquez, Eddie Belmonte and Jacinto Vasquez.

Ciulla said he sometimes used the tranquilizing drug acepromazine to drug favored horses to poor finishes. On other occasions he paid as many as six jockeys in one reace to "pull" horses, allowing him to place all-but-guaranteed winning bets on the remaining entries.

Ciulla said he does not doubt it still is happening:

"You have to realize that this game has been neglected for a hundred years," Ciulla said in a telephone interview. "There is no enforcement."

Track security is so spotty and penalties are so light, Ciulla said, he assumes some races are rigged and drugs are commonly used to alter performances.

Although racing officials contend the drugging problem is being controlled, Ciulla estimates that "as high as 50% of the horses run have got some drug in them—even today."

Present and former racing commissioners, laboratory chemists, horse owners, track officials, trainers, veterinarians, law enforcement officers, federal officials and humane societies were questioned in a 10-week probe. Some feared reprisals in employment or in more subtle ways at the track. Others feared for the sport's image.

Findings show state racing commissioners have failed to deal with many of the sport's problems:

New Mexico state officials, by destroying records, made it impossible to check allegations that horses may have been drugged in 1978 in the world's richest race, the million-dollar All-American Futurity at Ruidoso, N.M. A governor's commission on organized crime is investigating a possible coverup.

Some state racing commissions have further restricted use of medication in horses, but illegal drugging continues widespread. Most of the 29 racing states have adopted various reforms in the last year. But even those that have banned all medications—bucking pressure from horsemen—have been unwilling to toughen enforcement policies and penalties enough to curb the abuses.

In numerous cases, politically appointed state racing commissions have covered up druggings. Commissions in Illinois, New Mexico and Louisiana have adopted policies that impeded their laboratories from detecting drugs, or failed to act when drugs were detected. Commissions in California and Colorado issue warning bulletins each time racing chemists find a way to detect a previously untraceable drug in urine samples. The practice, in effect, allows crooked horsemen to shift quickly to still undetectable drugs.

Actual and potential conflicts of interest abound. Many racing commissioners are horse breeders. Chairmen of the Kentucky, California and Louisiana commissions run their horses in their own states. Other commissioners bet at races. Veterinarians commonly own and race horses against those they treat.

Mobsters or other criminal elements still hold hidden ownership of horses and, in some cases, visit the backstretch. Despite recent progress, allegations persist that some track owners have ties to organized crime.

"This sport needs to be investigated from top to bottom," said the FDA's Patterson. "There's big money involved here . . . and it's being siphoned off."

The drugging problem has plagued racing since it was disclosed that Dancer's Image won the 1968 Kentucky Derby with the pain-killer phenylbutazone.

Patterson said: "If anything, it's getting worse. I think it's a national disgrace . . . the amount of drugs being used on the racetrack right now.

"It's a ripoff to the public, and it's unfair to the honest horsemen."

Patterson said various state racing rules are so fragmented and unevenly enforced they cannot be effective.

What racing needs, contends Bob Benoit, general manager at Hollywood Park track in Los Angeles, is a "czar" such as football's Pete Rozelle or baseball's Bowie Kuhn with authority to oversee enforcement.

But Marc Paulhus, an investigator for the Humane Society of the United States, said the drugging problem has turned up a "great reluctance on the part of virtually every racing commission" to expose wrongdoers. He said federal intervention is the only answer.

"The state commissions simply don't want to deal with a scandal of the proportions that would result from effective enforcement," Paulhus said, adding that state regulators "are partners in racing; a portion of every dollar wagered goes to the state."

Paulhus also notes telecasts of races are being carried in such non-racing states as Connecticut, where bettors have no government recourse.

The Humane Society has turned to Congress for help, and has pushed the racing industry into a major fight to protect its turf.

Rep. Bruce Vento (D-Minn.) has reintroduced his proposed Corrupt Horse Racing Practices Act to require minimum state laboratory standards for drug-testing.

Vento's bill would require states to retain and freeze urine samples, taken after each race, so undetectable drugs can be uncovered when tests for them are developed later.

"I think it really gets at the integrity of the sport," Vento said.

The measure is being strongly opposed by the National Association of State Racing Commissioners and the racing industry.

Richard Rolapp, president of the American Horse Council, which represents 3.5 million owners, said his group feels the federal government lacks the expertise to regulate racing. He says state commissions should instead adopt "strong and severe penalties" to deal with druggers.

Former Chairman Alexander McArthur of the Illinois Racing Board, asked if he believes drugging amounts to fixing races, replied: "Absolutely. It's like ham-n-eggs."

Dr. George Maylin, head of New York's state racing laboratory, stressed in interviews his lab's ability to detect drugs. But in a secret report to state racing commissioners he said drugging "is a national crisis in horse racing." He said potent new drugs continue to find their way to the tracks.

And Illinois board member Joseph Kellman, whose proposals to tighten security and toughen drugging rules in his state have been roundly defeated, said simply: "Racing is 10 times dirtier than it has to be."

[From the New York Daily News, Apr. 21, 1981]

CRISIS—Part II

NEW MEXICO CASE: A DRUG COVERUP?

(By Gregory Gordon)

Days after the 1978 running of America's richest horse race at Ruidoso, N.M., a state-hired racing chemist shipped a box of urine samples to Chicago to be tested for a powerful stimulant drug.

More than two years later, chemist Robert Schoenfeld's decision to send off those 24 coded plastic bags for special testing could come back to haunt both him and New Mexico state officials.

Six urine samples—possibly one or more of them from the million-dollar All-American Futurity quarterhorse race at Ruidoso Downs were found to have contained the potent drug Sublimaze.

Three sources say Illinois racing chemist John McDonald told them he was advised, before testing the samples, that "the million-dollar winner" was among the 24 samples.

Schoenfeld angrily snaps, "I don't remember much about it," and stresses the exact identity of the horses is known only by the New Mexico Racing Commission.

The commission, which said it never was informed by Schoenfeld that samples were sent to Chicago, destroyed those records weeks after the race.

And now investigators are left only with these questions:

Why, after being informed by telephone on Oct. 9, 1978, that McDonald's laboratory had found six Sublimaze "positives" at the height of New Mexico's racing season, did Schoenfeld fail to advise the commission?

Why did Schoenfeld, upon learning of the positive urine samples, never pursue the matter?

Why did the racing commission secretary destroy the only records matching the horses to the samples, without first checking with the laboratory?

The handling of the drug tests by his lab and the commission, checked by United Press International during a 10-week investigation of horseracing abuses, now has drawn the attention of the New Mexico Governor's Organized Crime Prevention Commission.

It is looking into the possibilities of corruption or the cover-up of a major racing scandal by state officials.

Regardless of the outcome, the New Mexico case and similar episodes in other states illustrate how lax enforcement of drugging rules hurts the integrity of the nation's most popular spectator sport.

Through interviews with racing officials, including several laboratory chemists, UPI has reconstructed the New Mexico case.

On a sunny Sept. 4, 1978, Moon Lark raced to victory by a length and a half in the All-American Futurity, capturing a purse of $437,500 for its owners.

Urine samples from horses in the race routinely were tested for drugs by the state's laboratory contractor, Schoenfeld. But 1978 was different—racing chemists had made a break-through in their ability to detect Sublimaze.

The chemists had been flustered for years because of reports veterinarians and trainers were using new, sophisticated drugs—somethings experimental—that were affecting horses' performances but were not yet detectable in laboratories.

Sometimes trainers were using depressants to slow horses in several races, then after jacking up the odds, were withdrawing the horses from drugs. Other trainers used stimulants to manipulate performance.

Incidents in which trainers plotted to give depressants to several horses in one race prompted some officials to propose outlawing such exotic wagering as the trifecta, in which bettors must select the first three finishers in order.

In the early 1970s, most states permitted injection of two widely used drugs: the pain-killer phenylbutazone, known as "Bute," and Lasix, a drug used to treat post-race bleeding. Complicating the problem both drugs masked other illegal drugs.

"We're blind men feeling an elephant," former Louisiana racing chemist Eugene Hayes said recently. He said veterinarians and trainers use so many undetectable drugs that when chemists check the samples, "You see a lot of drugs you know are there, but you can't call them because the evidence isn't strong enough.

One former veterinarian, who stopped practicing at tracks in the early 1970s, says he commonly injected horses with both stimulants and depressants, sometimes in big races.

"If they wanted them speeded up, I speeded them up. If they wanted them slowed down, I slowed them down."

Robert Baker, a former owner so enraged at the use of drugs that he quit his job as a stockbroker to become a crusader for the Humane Society, says he commonly saw trainers with syringes sticking out of their back pockets.

About 1971, the Illinois laboratory developed a method of detecting dimethyl sulfoxide—DMSO—a penetrating, pain-killing drug that veterinarians and trainers were massaging into horses' skin, often mixed with more powerful stimulants. Vets and trainers switched to other drugs.

In 1974, racing laboratories began to pick up on the use of the narcotic stimulant apomorphine—so veterinarians made their usual shift. By 1978, there were rumors Sublimaze, a "Schedule II" narcotic closely controlled by the Drug Enforcement Administration, was routinely injected in sore or injured horses to improve performance.

Marc Paulhus, an investigator for the Humane Society, says some preparations of the pain-killer are "100 times more potent than morphine and have no therapeutic value in race horses."

After months of effort, lab chemists McDonald of Illinois and Hayes of Louisiana developed a method of detecting Sublimaze, using radioactively tagged antibodies produced in Belgium.

In mid-September 1978, several of the nation's top racing chemists decided the new "RIA"—radioimmuno assay—method was sound enough for reporting "positives" on Sublimaze, so long as test results could be confirmed with other methods.

Since he had the special antibodies, McDonald volunteered to test urine samples from across the country. Francis Ozog, the Colorado state chemist who joined in the decision, says he phoned several chemists in Western states, including Schoenfeld, and suggested they send some samples to Illinois for testing.

About two weeks after the running of the All-American Futurity, Schoenfeld sent his box of samples to Chicago, shipping them via Ozog because New Mexico and Illinois have no reciprocal testing agreement.

Ozog says the samples were coded, and that Schoenfeld never identified the races or horses involved.

But UPI has learned that 11 of the samples came from Ruidoso Downs and five of those were "positives" for Sublimaze.

Jutta Schreiner, a former Illinois laboratory assistant, says McDonald told her Ozog advised him "the million-dollar winner" was among the 24 samples. Dr. Charles Chapin, New Mexico state veterinarian who took the tests in 1978, also said McDonald told him Ozog had shipped him a sample from the Futurity winner. And a third Illinois racing commission source confirmed that version.

The Illinois Racing Board rejected requests for an interview with McDonald.

Schoenfeld said, "I couldn't tell you whether they (the samples) were from the Futurity or not. They could have come from Ruidoso, Sunland Park, the state fair, wherever . . . I don't remember much about it. There's nothing to hide about it. Nothing to be ashamed of."

Schoenfeld said he never told the New Mexico Racing Commission he had shipped the urine samples to Illinois because he only joined in the tests to determine whether he should routinely look for Sublimaze in his state.

Asked why he did not keep records that would help identify the samples, he said, "I don't care where they (the samples) came from."

Commission Executive Secretary Ron Besera said that in New Mexico, like many states, the laboratory gets only a coded sample providing the name of the track and the date to avoid prejudice against certain owners or trainers.

Besera said that since the Futurity was run at the end of the racing season, Schoenfeld promptly performed his routine tests on the horses and, when no drugs were found, released the million-dollar purse.

A few weeks later, Besera said, he personally destroyed the only cards identifying the horses, their owners and trainers. He said he was unaware any Illinois tests had been requested, and he did not learn Sublimaze "positives" were found until early this year.

"Once the chemist releases the purse, there's no use to keep them (the records) anymore," Besera said.

Schoenfeld argued that even with the Illinois lab report, he never would have told the commission of the drugs' detection without confirmatory testing himself. He said he did not attempt such testing because he had no RIA "kit" containing the antibodies for Sublimaze.

Since Illinois had his only samples, he said "the chain of evidence was broken" and the tests would not have stood up in court.

But Besera said Schoenfeld might have been able to make the tests using referee samples from the same horses, which are kept at the state laboratory for independent testing at the owner's request.

[From the New York Daily News, Apr. 22, 1981]

CRISIS—Part III

SAMPLING: NO CURE FOR RACING'S PROBLEMS

(By Gregory Gordon)

WASHINGTON.—In 1977 and 1978, Illinois' racing laboratory experimented with a new method of testing drugs and got startling results: urine samples from 59 horses raised suspicions of the presence of a powerful narcotic.

Exposure of all those druggings would have caused a scandal, throwing into question results of dozens of races. Few druggings were acted upon.

A former chemist says the Illinois Racing Board instead tried to cover up the abuses, ordering lab chief John McDonald to do confirmatory tests on only a little more than one-third of the 59 samples suspected of containing the potent stimulant Sublimaze.

Jutta Schreiner, McDonald's former top assistant who kept personal records on her lab work, charged that the "cut-off" order to limit testing to 23 samples was just one in a series of efforts by the board to impede McDonald.

Two and one-half years later, when a reporter made inquiries about the 36 samples that were never pursued, Board Chairman Chuck Schmidt ordered the lab to resume testing, commission sources said. Some trainers are being notified that if the tests prove positive, they could face disciplinary actions.

Mrs. Schreiner said in 1979, when the lab was abruptly shifted to new quarters, the board forced destruction of thousands of other samples awaiting testing for Sublimaze—testing that could have brought chaos to Illinois' racing industry.

Among the samples was one from a prize horse owned by Schmidt.

In an interview, Schmidt confirmed he participated in the decision to destroy those samples, including the one take from his thoroughbred "Flag Officer" after it won the $104,925 Illinois Derby at Sportsman's Park in Chicago in the spring of 1977.

The race was run a few months before Gov. James Thompson named Schmidt to the board, and Schmidt stopped racing his horses in the state.

There is no evidence "Flag Officer" was drugged. The horse's vet at the time was Dr. James Lamar, who treated 21 horses found by the lab in 1974 to have been injected with the stimulant apomorphine. Schmidt said he did not learn of Lamar's "track record" until he had been on the board for more than a year.

But Mrs. Schreiner said Schmidt's involvement in the decision to destroy the samples raises questions of conflict of interest.

She said when the lab was forced to move McDonald wrote Schmidt several memos urging him to preserve thousands of frozen samples—including the one from "Flag Officer"—for back-testing.

Schmidt said he does not recall discussing the samples with McDonald, and that on the decision whether to destroy them, he "had one vote" like any other commissioner.

One of racing's czars, Schmidt is chairman of the medication committee of the National Association of State Racing Commissioners and is scheduled to become association president in two years.

Although he voted three times against proposals to ban medications in Illinois race horses in 1979—on grounds he needed more expert testimony on their effect—he now is in the vanguard for tough rules against track drugging. Schmidt and his staff say Illinois' Racing Board is one of the most aggressive in enforcing drug violations.

Mrs. Schreiner says those boasts are a charade.

"John's (McDonald's) biggest mistake was, really, that he honestly wanted to catch all those violators," she said.

Citing the board's inaction, she said, "There are horses that were definitely positive (for drugs), and we reported them, and nothing ever happened."

She said the board constantly kept the lab and its future "swaying in the wind."

In secret testimony last summer, McDonald complained the board or its staff had in some cases committed "obstruction of justice" by impeding the lab. However, he cited no evidence of specific intent by the board to block investigation of druggings—a felony in Illinois that carries a maximum three years in prison and a $10,000 fine.

McDonald, declining to answer questions, said he had received a memorandum from the board stating he could grant interviews only with its permission. Schmidt's version was different: McDonald said he "wouldn't care to be interviewed."

At least one board member was irked at Schmidt's reluctance to make McDonald available.

"This covering-up crap is not my bag," said Cecil Troy.

McDonald, a former police crime laboratory technician, took charge of the lab in 1968. Racing board rules at the time required him to trace urine samples for drugs—some of which were undetectable—within 24 hours of a race and to prove the drug affected performance.

By 1973, the board voted to permit commonly used medications such as phenylbutazone (bute), a painkiller, and Lasix, used to stop horses from bleeding. Both masked more potent drugs.

Drugging at Illinois tracks was rampant.

In 1974, McDonald decided to fight back. He began freezing urine samples, hoping laboratory advances eventually would enable him to search back, find drugs and catch offenders.

In his lab in a dilapidated building on Chicago's North Side, McDonald stored thousands of samples—a time bomb for racing.

Late that year the bomb went off. McDonald learned how to detect the narcotic drug apomorphine. Testing 6,000 samples, the lab found 84 apomorphine "positives" from dozens of races—all horses treated by veterinarians James Lamar and Walter Wilkey, and handled by 26 trainers.

It seemed a major scandal would break, affecting dozens of races with purses totaling hundreds of thousands of dollars. But of the 28 persons involved, the racing board prosecuted only Wilkey—for records violations, because there was no way to prove he had drugged the horses. Wilkey ultimately was cleared, winning a court fight on grounds the samples might have been tampered with before the tests.

Schmidt, not on the board at the time, conceded it would have been easier to prosecute the trainers—responsible for guarding horses against druggings—than the vets.

He also acknowledged some samples were reconfirmed by a Colorado chemist and that Mrs. Klein, the board attorney, had failed to mention that in her appeals brief. Schmidt said Mrs. Klein may have made "an oversight" that could have cost the case and prevented prosecution of some trainers.

Mrs. Klein contended no trainers were prosecuted because "the legislature gave us one lawyer—me. We didn't have the resources to prosecute everybody at once. By the time we were ready to prosecute (the trainers) . . . the witnesses were old, the evidence was old."

Other sources said the state attorney general's office could have made lawyers available to assist Mrs. Klein, if needed.

On Labor Day, 1978, at Arlington Park in Chicago, four horses broke down during a race. The state vet immediately diagnosed they had been injected with insulin to slow them, and ordered injections of glucose to save their lives.

The lab confirmed the presence of insulin and the racing board—this time under the watchful eye of the public—suspended one trainer for life, one for 25 years and one for 10 years.

It was just a month after the much-publicized insulin episode that McDonald's worst troubles with the racing board began.

Mrs. Schreiner, who quit the lab in 1979 to work, for an oil company, said that in late 1977 McDonald had developed a new radioactive testing method for finding the widely used drug Sublimaze.

Screening thousands of urine specimens, he found 59 "suspicious" samples by autumn, 1978. McDonald and other chemists met in September 1978 and agreed they had ample testing methods to take action against those using the drug.

But in October, Mrs. Schreiner recalled, Mrs. Klein phoned the laboratory and told McDonald he was to conduct no tests for Sublimaze on samples prior to July 1, 1978.

Mrs. Klein denies ever issuing such instructions, but Mrs. Schreiner said she would be "willing to testify" the call was made. She said McDonald already had turned up 36 "suspicious" samples prior to July 1, 1978, when the cut-off was ordered—as well as another 23 after that date.

He could not complete testing on the 36 samples, but took them with him in two lab moves.

Schmidt became board chairman in December, 1978. In one of his first actions, he endorsed a proposal by Mrs. Klein to free owners from responsibility for druggings detected more than 60 days after a race. The vote, of course, freed him from any potential backlash for any drugs that might have been found in "Flag Officer."

Weeks later, McDonald suddenly was notified the building housing his laboratory was uninhabitable. Mrs. Schreiner said McDonald wrote Schmidt memos urging the board to preserve the frozen samples. The board refused.

Several months later, the building and thousands of samples—including the one from "Flag Officer"—were destroyed.

In July 1980, McDonald told a board "security committee" headed by outspoken board member Joseph Kellman who has unsuccessfully pushed for reforms, that he had been told his lab must move a second time.

Minutes of that meeting quote McDonald as charging the move "was planned deliberately to get rid of the samples and to disrupt the lab operation."

Advised of that comment, Schmidt said, "I call that a flat lie." He contended the minutes were inaccurate, but declined to produce McDonald.

McDonald and Leonard Besicka, head of the Illinois Bureau of Investigation's Racetrack Division, told Kellman they were sure that word of the pending lab relocation had reached the racetracks, and trainers knew that meant the samples again would be destroyed.

"Drugging is no doubt rampant right now," Besicka was quoted as saying.

Kellman, himself a breeder and owner of the 1973 Kentuck Derby entrant Shecky Greene, said until he got on the racing board, "I never realized what a dirty business it was. I was naive."

Last year, Congress began considering legislation calling for the federal government to take charge of enforcing rules against drugging race horses.

About that time, Schmidt and many other commissioners nationwide reversed course and became public crusaders against drugging. But behind the scenes, commission sources charged, Schmidt still has frustrated the laboratory's enforcement efforts a number of times.

Schmidt contended any actions on his part to curb the lab were the result of funding limitations.

"The lab does as sufficient a job as they can," he said. "We could have 70 warehouses full of refrigerated samples. The primary concept of frozen samples is the deterrent and fear factor. How far back we go (to test for drugs) is incidental."

He said the board occasionally has cut off back-testing when the lab falls behind on its testing of samples from current races. He said most decisions to halt testing are based on "time and money."

But Kellman noted the racing industry produces $70 million in revenues each year for Illinois, and the racing lab's budget is about $400,000.

"If we're not willing to stand . . . pressure from state capitols or whomever is trying to affect our funds," he said, "we might as well put on the (racing) programs: 'You are gambling at your own risk. This track is unprotected.' "

[From the New York Daily News, Apr. 23, 1981]

Crisis—Part IV

AN INDUSTRY OF FRIENDLY TIES

(By Gregory Gordon)

State racing commissioners in Ohio and Michigan are barred from owning race horses—to prevent personal financial interests or cronyism from coloring how they enforce rules.

In Kentucky, racing commission Chairman Brownell Combs 2d not only is a major thoroughbred breeder, but also runs his horses on the tracks he is assigned to regulate.

Commission chairmen Nathaniel Colley of California and Albert Stahl of Louisiana race thoroughbreds in their home states. Raymond Eaves, head of New Mexico's racing board, has run a horse in the state at least once.

All this is legal. Laws in Kentucky, Louisiana, California and New Mexico permit Combs—millionaire president of the National Association of State Racing Commissioners—and the other chairmen to race horses while ruling the tracks.

In fact, several states require that governors appoint owners or breeders to a majority of commissioner posts because of their intimate knowledge of racing.

In New Mexico, three of the commissioners are horse breeders. One of the two businessmen on the commission, Willard Krueger, owns no horses. But his wife does—and routinely races them in New Mexico.

The practice of letting horsemen self-regulate is drawing heightened criticism. Racing reformers say commissioner's personal financial dealings, political connections and friendly ties to the industry raise serious questions about their ability to police a struggling sport.

Marc Paulhus, an investigator for the Humane Society of the United States, which wants a tougher crackdown on horse drugging, said commissioners who are horse breeders are "quite frequently compromised" by conflicts of interest.

"It's pretty much the fox watching the henhouse," he said, citing longtime friendships between breeders serving as commissioners and owners of large stables, racetrack officials, veterinarians and trainers.

Alexander MacArthur, a cattle farmer who was chairman of the Illinois Racing Commission until 1973, put it bluntly:

"How can you regulate somebody if you're jiggling ice cubes with them?"

A 10-week UPI investigation found that racing commissioners owning horses is hardly the only special interest issue facing the sport. Racing seems rife with actual or potential conflicts adding up to an appearance of loose regulation.

Track owners run horses at their own tracks, sometimes while paying the salaries of stewards officiating the races. Stewards own horses—or have been known to board them for track owners—while officiating at races in which those horses run.

While drugging is commonplace, veterinarians own horses and sometimes run them against those their are treating. Trainers sometimes illegally bet against their own horses.

Commissioners have been involved in some of the most questionable conflicts. Some bet. Others have business partners, relatives or buddies in racing. And at least one has been involved, along with former state commissioners, in promoting sales of an orange- and lemon-peel powder for use in horses—a product the Food and Drug Administration says is worthless.

Even some of the tycoons at the heart of racing have been accused of conflicts. Eight of the 23 members of the New York Racing Association, which runs Aqueduct, Belmont and Saratoga, are breeders—including such well-known names as Ogden Mills Phipps, Thomas Bancroft Jr., Jack Dreyfus, Alfred G. Vanderbilt and John Hay Whitney.

Chairman Chuck Schmidt of the Illinois Racing Board first was named to the commission in 1977, just months after his quarter-million-dollar thoroughbred "Flag Officer" won the Illinois Derby at Sportsman's Park. Schmidt, a semi-retired attorney, then stopped running his horses in Illinois—but still reportedly writes tax-shelter plans for fellow horseowners.

After becoming board chairman in December 1978, Schmidt voted to approve a rule protecting owners from losing their winnings if drugs are found in their horses' samples more than 60 days after a race. The action guaranteed he could not lose the purse from "Flag Officer's" victory.

A short time later, Schmidt participated in a decision to destroy thousands of urine samples—including a specimen from "Flag Officer"—before they could be tested for the powerful drug Sublimaze.

Schmidt, a millionaire who has a breeding share in 1978 Triple Crown winner "Affirmed," concedes commissioners should withdraw from policy decisions affecting their own horses. And he said commissioners who are breeders "should not race in (their) own jurisdiction."

At a meeting of the National Association of State Racing Commissioners in San Francisco in 1979, one of the speakers was former chairman John Newman. Newman had left his post as chairman of the California Racing Commission in 1976 and soon, along with co-commissioner William Simpson, became a director at Hollywood Park in Los Angeles, last year's national leader in betting handle.

Newman also for years had served as a director of Sunkist Growers Inc. He went before his former colleagues to promote Sunkist's new Hesperidin Complex, powder made from citrus peels that the company contends stops certain horses from bleeding after racing.

Gordon Beisel, director of research for Hesperidin at the company's Sherman Oaks, Calif., headquarters, said research shows Hesperidin strengthens the capillary walls to prevent bleeding under stress.

The FDA says Hesperidin has no effect on a horse's condition, but is harmless.

Newman contended Hesperidin would replace Lasix, a widely used anti-bleeding drug that has racing commissions in a quandry because it masks more potent drugs. He said Sunkist was seeking distributors.

Gary Jackson, a Washington state racing commissioner, soon persuaded boards in several states to research Hesperidin—hoping for a substitute for Lasix.

In 1980, Sunkist began marketing the product—selling it at the track for $15.90 a pound, which Beisel says is an 18-day supply for one horse.

Jackson became a distributor in June, six months after he left the commission. Jackson said when he was a commissioner he "did have some concerns, quite frankly, that should I become involved with it (Hesperidin), it could become an apparent conflict of interest."

In Pennsylvania, William Gross a racing commissioner, also took a distributorship for a time, sending letters promoting the product. Fred Bradley, former lawyer for the Kentucky State Racing Commission, also is a distributor.

Commissioners with breeding interests may be unable to avoid some conflicts. While they serve in their part-time posts and get token pay, they may receive "breeder's awards" when offspring of their prize mares win races in the states where colts were foaled. Commissioners also may be asked to rule on cases affecting owners who bought horses from their breeding farms.

Joseph Kellman, an outspoken member of the Illinois Racing Board, says horsemen on racing boards also could be compromised by the need for precious stall space at tracks.

"I don't know how you're going to be looked upon by a track you've ruled unfavorably upon," he said. "You're only going to be on the commission for two to three years. After you're off the commission, they can give you 10 stall spaces. They can give you none."

In Maryland, commissioners J. Neil McCardell and Frank W. Cuccia commonly bet races, a practice that has irked the staff of Gov. Harry Hughes and reformers in the legislature.

Says Kellman, "I'm not sure that horsemen can be objective in this job. And I'm not too sure that you need to know too much about horses to be a good commissioner."

One state that seems to back up his argument is Florida, where Gov. Robert Graham named Gary Rutledge, 30, an attorney with no racing background, as director of the Division of Parimutuel Wagering.

Rutledge, who oversees enforcement of horse and dog racing and assesses all penalties, has been one of the sport's most aggressive regulators. His state is one of just three to freeze urine samples while laboratory advances enable the detection of sophisticated drugs. Florida has punished more trainers than any state in recent years.

"It looks like we've got a bunch of corrupt people down here," he said: "I think the point of the matter is, states that didn't freeze samples, they very possibly would have found some (drug) positives themselves."

Rutledge says as a result of his tough enforcement, horsemen in the state "are out for my job. They've petitioned the governor to have me removed, and are exerting pressure on legislators and others. The reason, frankly, is that I do not come from the industry."

For more than 25 years, Maryland's chief track steward, J. Fred Colwill, has made his private farm a boarding place for horses owned by Ben Cohen, owner and treasurer of Baltimore's Pimlico Race Course.

At Pimlico, which hosts the Preakness each spring, Cohen runs his own horses and those belonging to his wife, Zelda. Their horses also run at other tracks in the state. Colwell does not choose to disqualify himself from officiating in those races.

Lawrence Abbundi is Pimlico's racing secretary, not only responsible for writing the races but also for filling the field by presiding over drawings for post positions.

Abbundi was hired by Pimlico, which pays his salary.

One Maryland thoroughbred owner said he became interested a few years ago in Abbundi's role at the track. He noted that when Pimlico is dark, Abbundi is racing secretary at other tracks where Cohen's horses run.

"I couldn't recall where they (the Cohens) ever had any unusual post position that would be detrimental to their horses," said the owner, who declined to be identified for fear of reprisal.

"My contention is that the owner of a racetrack should not be able to run horses at his own track, nor should he be able to run horses at any other track where the racing secretary is the same man he hired at his own track."

The owner said he was so fed up with all the conflicts of interest in the sport, he was considering selling his horses and calling it quits.

But Cohen, in his 80s, said those who charge him and other track owners with such conflicts of interest are "dummies."

"I am not in the steward's stand," he said, "I don't place the horses. My secretary doesn't write (entry conditions on) races for me, because I've never asked for a race. We run in the races that our horses fit. When I run a horse, I'm out to win, and people bet on it because they know we're trying."

He said he also is an avid bettor. "It's the only vice I have. Why not? At my age, what am I gonna do with my money? I don't complain. At the end of the year, I'm a loser."

[From the New York Daily News, Apr. 24, 1981]

CRISIS—Part V

SCANDALS: FIXES, DRUGS, THE MOB

(By Gregory Gordon)

In a sleeping bag floating in Marley Creek in Glen Burnie, Md., police found the body of 78-year-old William "Speedy" Jaffa, a reputed Baltimore loan shark and one-time pornography dealer.

Only with that murder last June did authorities get a clue to what might be a racetrack scandal.

Sifting through papers in Jaffa's home in an attempt to solve the killing, detectives came upon a puzzling series of photographs.

Jaffa, an avid racing follower with a reputation for picking winners, was pictured standing proudly in the winner's circle with horses owned by Joel Mandato of the Baltimore suburb of Ellicott City. Winner's circle photographs usually are reserved for owners and breeders.

Discovery of the photos prompted officials of Maryland's branch of the Thoroughbred Racing Protective Bureau to open an investigation into the possibility Jaffa was a hidden owner of some of the horses.

Law enforcement sources said Jaffa, who had a longtime criminal record, at one time had as much as $1 million in short-term, high-interest loans circulating the streets of Baltimore. A convicted felon cannot own race horses.

The sources said investigators looking into apparent business ties between Jaffa and Mandato have been unable to find cash receipts or cancelled checks that verify Jaffa was a secret partner.

But Mandato, in an interview, confirmed Jaffa loaned him money to help him buy at least two horses and "if I made any profit I'd split it with him."

He denied knowing about Jaffa's criminal record.

"I knew he was in the loan business," he said. "When you hear the word loanshark you hear of heavies. He was a pretty nice guy. He didn't break their arms. He helped a lot of people."

The case underscores the frustration investigators face in trying to cope with one of racing's oldest and most vexing problems: the presence of mobsters or unsavory elements controlling horses or racetracks, or being closely involved in the game.

Be it for lack of will or because corruption is so pervasive, state racing commissions and law enforcement agencies have been unable to clean up the sport.

Horse-drugging is widespread, race-fixing cases surface regularly, some "ringers", occasionally are slipped through spotty track security to replace slower horses, and there are repeated allegations of money being skimmed from tracks' parimutuel handles.

It is perhaps the only major sport plagued by such scandal.

Jimmy Fratianno, former boss of the Mafia's Los Angeles family, offers a bright note—assuring the public racing no longer is dominated by the mob.

Fratianno told UPI that a number of Cosa Nostra underlings are bookies, "but the bosses, the underbosses, they don't fool with the stuff."

"They're not in it. Believe me," Fratianno, now a protected federal witness, said in an interview arranged by the U.S. Marshal Service.

"They know that sooner or later they might get into trouble. Every family I know of, I've never heard of anybody getting involved in horse racing in recent years."

But last summer, racetrack investigators discovered that reputed New York mobster Alphonse "Alley Boy" Persico, now at large on a pending federal indictment, owned a thoroughbred breeding farm in the Catskill Mountain town of Saugerties, N.Y.

Persico's sister is married to Thomas Farese, who recently was convicted in Miami for drug dealing. Investigators determined Farese—through his wife—also owned horses and was racing them in Florida.

The matter, still under investigation, resulted in the prestigious Jockey Club refusing Persico's farm a certificate for foal registration, which is needed for legal breeding. The horses then were shipped out of New York.

No one knows how many mobsters secretely own horses. Inquiries also are under way in hidden ownership cases in Illinois, Louisiana and California, but investigators lament such arrangements are nearly impossible to trace.

"They're doing most of it in cash," said one investigator from a major racing state. "Mike gives Joe $10,000 to buy a horse. There's no record maintained. The theory behind it is that if you have a million dollars and you want to buy 10 good thoroughbreds, you can shuffle them around to various people and get all those horses in the same race. Then you try to get some control over that race."

The ownership of at least one premier thoroughbred, a possible entrant in this spring's Triple Crown races, was called into question in February.

A California board of stewards suspended Michael Blake on Feb. 7 after hearing evidence he secretly owned two horses for his boss, boxing promoter Harold J. Smith. One of the horses was Johnlee N' Harold, winner of this year's California Breeder's Champion Stakes for his boss.

But the full racing board in March overturned the ruling because the only substantial evidence was sworn testimony from the horse's trainer, Enrique Mena, that he watched Smith count out $32,000 cash for the purchase.

Fields went into hiding in late January when word circulated the Wells Fargo Bank had lost $20 million in an embezzlement. In early April he disclosed in federal court he actually was Ross Fields, one-time Washington disco owner.

There is no evidence Smith is tied to organized crime.

But Tony Ciulla, racing's most notorious fixer, contends the mob never is too far from the action.

Ciulla, now relocated by the U.S. Marshal Service after providing testimony leading to convictions of more than 50 trainers and jockeys, said most fixers soon learn not to operate without apprising the mob's illegal bookmakers.

He said after fixing a number of races he was "called in" by New England mob chief Raymond Patriarcha. "They said: 'Listen, you've got two or three choices. You're gonna go in the trunk, or you're gonna stop fixing races, or we're gonna be your partners.'

"I said, 'Okay. We're partners.'"

Ciulla also contends the Louisiana mob has ties to racetrack ownership in Louisiana, Massachusetts and West Virginia.

He says federal intervention may be the only way to clean up the sport.

"You have to upgrade the class of people that are allowed on the backstretch and toughen penalties," he said.

Assailing track security, Ciulla says the main policing force at 54 thoroughbred tracks—the Thoroughbred Racing Protective Bureau—gave him little trouble.

"They have no jurisdiction to do anything," he says. "They can't arrest you. The most they can do is put you off the grounds."

He says even after he skipped bail and was sought nationwide, he wandered around tracks, fixing a 1975 Labor Day race at Keystone Park, Pa., and appearing on the backstretch at New York tracks.

State commissions seem reluctant to crack down on the industry's biggest scourge—horse druggings—apparently because they are afraid publicity from such scandals would so smear racing's image attendance would suffer.

David Hooper, executive secretary of the Illinois Racing Board, even suggested it would be better to make an example of one violator when a new drug is detected then set out to catch all the culprits.

"If you assess the first one real harsh, what do you need (to penalize) 10 for?" he asks.

In New York, the racing commission has begun requiring pre-race blood tests of every horse. But after the tests, the horses are returned to their trainers' custody for two to three hours before the race.

Viola Summer, owner of Sham, which finished second to Secretariat in the 1973 Kentucky Derby and Preakness, says she feels it is "mandatory to have a detention barn . . . so that once a horse is tested, no one can tamper with him."

Although horses get restless when penned up for hours, her well-known trainer, Frank "Pancho" Martin, agrees.

"I wish they'd put them in tomorrow. I'd feel more comfortable that the other people are not gonna take advantage of me."

Until March, horses found to have been drugged in pre-race tests were scratched but trainers were not punished. Now trainers are warned for the first time in a 12-month period, are fined $250 fine for a second offense, and have their licenses suspended for a third.

In Maine, trainers who refuse to submit horses for pre-race blood tests are fined $50 but permitted to continue racing.

Joseph Kellman, a member of the Illinois Racing Board, is angered that his board rarely reviews stewards' ruling on punishments. He said in one case a trainer got a $200 for injecting an illegal drug.

"For $200," Kellman said sarcastically, "I'll fix a race."

In 1975, five Maryland jockeys were caught fixing a race at Bowie. All were convicted, one later committed suicide. Last year, after three of the jockeys applied for licenses, the state racing commission voted 3-2 to overturn a stewards' ruling and issue them exercise licenses, the first step to reinstatement.

Robert Baker, a former owner now with the Humane Society of the United States, noted other sports have dealt more harshly with offenders.

"Football players Paul Hornung of the Green Bay Packers and Alex Karras of the Detroit Lions were suspended for a whole year just for betting on their own team," he said.

In January, Clifford Wickman, president of the TRPB, complained at its annual meeting:

"When convicted race fixers are allowed to again be licensed, when a post-race positive for a new and powerful analgesic drug such as Zomax results in a slap-on-the-wrist, 15-day suspension, and when suspensions of every sort are delayed for weeks and months . . . then the integrity of racing is not served. Indeed, it is greatly harmed."

Wickman also said that despite the major concerns over hidden ownership, foal registration papers on some 25 percent of horses at any TRA track do not list up-to-date owners.

Despite efforts to hush scandal, state commissions have been unable to avoid unfavorable publicity. The FBI and other law enforcement agencies have begun to show an interest in stopping the corruption.

Ciulla said one scandal could break soon. He predicts Con Errico, a recently convicted former New York jockey, will turn federal witness to avoid a 10-year jail sentence and provide evidence against such famed jockeys as Angel Cordero Jr., Jorge Velasquez, and Jacinto Vasquez.

The three "held (back) horses . . . many times," charged Ciulla, who did not provide enough evidence against them on his own to bring indictments. All three have denied wrongdoing.

In Florida, Anthony Accetturo, whom federal sources call one of the most active organized crime figures in the state, faces trial on charges he plotted to slip depressant drugs into the stable water pails of horses at Calder Race Course in 1975.

PREPARED STATEMENT OF RUSSELL J. GASPAR

The American Horse Protection Association, Inc., is a non-profit humane society having 15,000 members. It was organized, and acts, to promote the welfare of all horses, including those in competitive sports. During the past four years AHPA has paid particular attention to the problems of uncontrolled administration of drugs to racehorses. Because of the alarming public revelations concerning the gross abuse of "permissive medication" rules, and the racing industry's inability to adopt uniform and effective anti-drugging rules and testing procedures, AHPA urges the Subcommittee to act favorably on S.1043.

S.1043 provides for a uniform national prohibition on the pre-race administration of drugs to racehorses. The bill outlaws all substances foreign to the natural horse, but permits the Administrator of the Drug Enforcement Administration to establish innocuous trace levels of drugs that may be present in the horse on race day. It establishes a uniform and comprehensive system for pre- and post-race testing of the blood and urine of racehorses, and provides that samples of blood and urine may be frozen and stored for further analysis. Finally, it establishes civil and criminal penalties for those who violate its provisions.

The bill does not in any way restrict the use of medications to treat an injured or ill horse. It will, however, prohibit a horse that is undergoing an active program of theraputic medication from racing. More important, the bill is intended to forbid any horse from competing following the administration of non-theraputic drugs, including narcotics, stimulants and depressants.

I. THE DRUG CRISES IN RACING

> There's something wrong with a system where every horse entered at a particular racetrack on a single day is on bute. There's something wrong with a system that varies so drastically from state to state that veterinarians can't keep up with the rules.
>
> -- Earle Palmer Brown,
> President, Harness
> Tracks of America,
> in Hub Rail (winter
> 1979)

> Maybe the Jockeys' Guild has waited too long to say what it's about to say now. Controlled and permissive medication should be banned entirely to stop the constant and increasing parade of lame, sore, worn-out, and completely exhausted horses from going to the post every day.
>
> The public is not being given good racing. More and more horses are breaking down and being destroyed, and more and more jockeys are injured seriously or killed.
>
> -- Nick Jemas, Managing
> Director, Jockeys'
> Guild, in the New York
> Daily News, March 23, 1979

> Whenever a new drug comes into the market, the performance of horses reflects it. Form goes haywire. This happened in 1975 [in Maryland] when Lasix was introduced on to the backstretch, and in 1978 when Sublimaze was discovered. . . . When a single trainer begins to perform one miracle after another, the reason is likely to come out of a bottle.
>
> -- Andrew Beyer, Washington
> Post, June 28, 1979

During the past four years a series of public disclosures concerning the widespread abuse of so-called "permissive medication" rules in horse racing has contributed to increasing public distrust in the sport. Racing writers in the Washington Post, Philadelphia Inquirer and New York Daily News, as well as Sports Illustrated, have discussed in great detail how drugs not only can contribute to astonishing changes in form, but are used to fix races and to permit horses that would otherwise be unable to compete to enter the starting gate. Many leaders in the racing industry have regularly argued for a uniform program eliminating drugs, if for no other reason than because public confidence in the sport cannot be maintained without it.

Permissive medication rules are a relatively recent phenomenon. Prior to 1968, it was illegal in nearly every racing jurisdiction to permit a horse to run while medicated. However, the disqualification of Dancer's Image, the 1968 Kentucky Derby winner, for running on phenylbutazone, was the impetus for change. During the late 1960s and early 1970s permissive medication rules were adopted in most states.

A variety of reasons were given for liberalization of the drug rules. The foremost was that the expansion of racing seasons created year-round pressures to field horses, pressures that could only be relieved if tired or aching horses could be medicated rather than rested. Phenylbutazone ("bute") was the drug most horsemen wanted for this purpose. Another argument was that "bleeders" -- horses that bled from the nose or lungs during a race -- needed medication to help control their hemorrhages. As a result, furosemide ("Lasix") was legalized. These, and a wide variety of other drugs including corticosteriods, were permitted on the theory that they were legitimate medications that merely let a horse perform at its potential, rather than distorting or altering the animal's performance.

Bute is a relatively safe anti-inflammatory drug that apparently also acts as an analgesic. It is a legitimate and effective medication for horses when used properly, but has no curative properties. It only relieves symptoms. It has become so commonplace on racetracks that a high percentage of horses run on it in those states where it is legal.

Unfortunately, there is a direct correlation between the use of bute and the incidence of racehorse breakdowns. During the past six years at Keystone Racetrack in Pennsylvania, Waterford Park in West Virginia and (most recently) at Prescott Downs and Turf Paradise in Arizona, the number of breakdowns dropped dramatically after the use of bute was suspended.

The implication is clear: many horses running on bute shouldn't be running at all. Masking the symptoms of an injury with bute, steriods or analgesics does allow the horse to exceed its potential, because the injury has lowered that potential. The horse is permitted to run at maximum effort on an injured limb because it can't feel the discomfort associated with the injury. But the injury hasn't healed, and running on it may compound the damage to the point at which the horse collapses -- often spilling other horses and riders in the process.

A relatively small percentage of horses are true "bleeders," yet an extraordinarily high percentage of horses run on Lasix in those states that do not restrict its use. Lasix is a powerful and effective diuretic, but there is serious doubt about is effectiveness as a medication to treat bleeders. It is not approved by the FDA for that purpose. In many cases researchers have found that nasal or pulmonary hemorrhage is a symptom of a condition that Lasix cannot ameliorate or cure, such as emphysema. Here again, horses that should not be running are permitted to run by the administration of medication.

Despite the claims of the proponents of permissive medication, the pressures of expanded racing seasons haven't been alleviated by medication. Horses are making fewer starts per season now than in 1969, and the size of the average field has declined slightly. Cards are being filled because there are more horses competing today, not because horses are racing more frequently. Medication has only meant that horses that shouldn't be competing are going to the post -- often, as Nick Jemas has noted, with tragic consequences for the animals and their riders.

> If every horseman was one of the 12 disciples, permissive medication might work. But trainers and vets know that they can use the legal [drugs] and beat our chemists. They can mix together a number of the legal drugs and then add an illegal stimulant or narcotic.
>
> -- Dan Brady, then-director of parimutuel wagering in Florida, in the Washington Post, May 26, 1979

> It can't be mere coincidence that "controlled medication" programs have been accompanied by the appearance of a multitide of narcotics like Sublimaze, Stadol and Methadone.
>
> -- Andrew Beyer, Washington Post, November 9, 1979

Another serious consequence of permissive medication programs has been the proliferation of other drugs -- for which no legitimate use can be identified -- in horses. Synthetic narcotics, narcotic antagonists, amphetamines, tranquilizers and analgesics all have been found at the track, with a frequency that defies any explanation that they are used only by a few unscrupulous trainers. For example, in September 1980 Pennsylvania officials developed a test for Banamine, an illegal painkiller many times more powerful than bute. On the day following the discovery of the test, stewards at Keystone Racetrack advised the veterinarians practicing there that if they had administered Banamine, their horses ought to be scratched. Every vet conceded that he had administered the illegal drug that day, and nearly a quarter of the field was withdrawn.

Banamine is only one example. Illicit drugs come and go; they are in vogue until racing chemists discover how to test for them, and are replaced as soon as trainers and vets get wind that a test has been developed. Like Banamine, Sublimaze and Stadol have been regularly abused; undoubtedly other drugs have taken their place on the backstretch. Every candid observer of the racing industry -- even its most vocal partisans -- concedes that the use of illicit drugs is out of control.

The problem of detection is made worse by the fact -- as Dan Brady noted -- that chemical "cocktails" of legal and illegal drugs inhibit testing methods. It has been known since the mid-1970s, for example, that bute will interfere with the detection of a variety of drugs in blood and urine, depending on the concentration of bute present and the sensitivity of the testing methods. Even "normal" race-day doses of bute may hinder the detection of illegal drugs, according to the Veterinary-Chemist Advisory Committee to the National Association of State Racing Commissioners.

Because of its diuretic properties, Lasix has long been suspected of affecting drug analysis. Lasix increases urine output in horses by 40- to 50-fold and, as a result, can dilute trace levels of other drugs substantially. A 1980 study by seven official race horse drug testing laboratories found that Lasix would interfere for up to six hours with detection of a number of commonly abused drugs, including Apomorphine, Sublimaze, Stadol, Acepromazine and Ritalin. The interference was observed by all of the labs, regardless of the analytical method used.

This data undermines the already weak argument that horses must run on bute or Lasix. There is serious evidence that permitting horses to race on these drugs does more harm than good. Their potential to inhibit the detection of much-abused and clearly illegitimate drugs makes their use in horses that are competing unsupportable.

II. THE FAILURE OF RACING STATES TO ADDRESS THE CRISIS ADEQUATELY

> Hay, oats and water. That is all. There will be no racing on any kind of medication. None.
>
> The hours, the days, the years of agonizing debate over whether horses should be permitted to race on theraputic medication are over. There can be no more rationalizing, no more compromising, no more local option experiments.
>
> -- Editorial, The Blood-Horse, August 16, 1980

> Most [state racing] commissioners would like to go back to the hay and oats schedule - but are afraid that horses will leave their jurisdictions for surrounding states where permissive medication would still be allowed.
>
> -- John K. Goodman, then-President, National Association of State Racing Commissioners, in Hub Rail (Winter 1979)

During the summer of 1979 The Blood-Horse, the bible of the thoroughbred industry, polled its readers to obtain their views on drugging. Sixty-nine percent of the respondents (favored) "vehemently opposed the prevalent practice today of racing horses on medication." The readers felt that permissive medication rules had been abused in a manner that clearly outweighed the relatively minor benefits of racing while on medication. They favored a uniform no-drug rule accompanied by a diligent detection program and stricter penalties for violators.

At least since 1979, a uniform no-drug rule has had many influential proponents within the racing industry.

They include many state racing commissioners, veterinarians, owners and breeders and the Jockeys' Guild. Senator Nicholas Brady, while president of the Jockey Club, announced in August 1980 that his organization favored a no-drug rule. These industry leaders clearly recognized the harm that permissive medication rules had caused.

In April 1980 the National Association of State Racing Commissioners adopted guidelines on medication generally prohibiting the pre-race administration of drugs to horses. A low residual level of bute was permitted. Lasix was allowed only for horses confirmed as bleeders by a veterinarian employed by a state racing commission, and could not be administered within five hours of post time. However, in September 1980 the NASRC medication committee banned the use of Lasix altogether,

> until such time as adequate research is available to determine that the use of lasix is proper medication for exercise induced pulmonary hemorrhage and that the use of lasix for such treatment will not interfere with laboratory testing efforts necessary to detect violations of the medication guidelines.

Shortly thereafter, NASRC issued uniform drug testing guidelines for state laboratories, and established a quality assurance program to improve lab capabilities.

The NASRC guidelines are in many ways similar to S.1043 and, in AHPA's opinion, could have had a significant impact on racehorse drugging if uniformly adopted and properly enforced. Unfortunately, the NASRC guidelines are not mandatory. Some states have adopted them essentially as written. Other states have adopted them but ignored the prohibition on Lasix. Still others have ignored them, including major racing states such as California, Florida and Kentucky.

This patchwork quilt of drug rules is only marginally better today than it was in 1979. What's worse, only a few states have adopted the NASRC drug testing guidelines and quality assurance program. Even the best medication rules are ineffective without a competent and comprehensive testing program very few states can claim to have. Furthermore, penalties in different states vary widely, and enforcement is uneven.

The attempts of those who favor strict drug rules have been vigorously opposed by the Horsemen's Benevolent and Protective Association, and have received at best half-hearted support from the American Veterinary Medical Association. The Chairman of this Subcommittee is, AHPA knows, well aware of the fierce opposition (including a boycott threat) of trainers to the 1979 proposal that bute and Lasix be outlawed on Maryland tracks. The Maryland experience -- which resulted in a delay of the ban on bute and a liberalization of the Lasix rule -- is not unique. Similar state proposals have been challanged in court in Florida and Arizona, and no state has enacted them without a struggle. Some states, of course, have not adopted them at all.

Even the specter of federal legislation such as S.1043-- legislation that is abhorrent even to most of those who want to ban drugs -- has not motivated the states to act. In recent months, further evidence of pro-drug pressure at the state level has surfaced, even in states having generally good records regarding drugs. Earlier this year New Jersey enlarged to pre-race period during which Lasix may be administered, reducing its ban on the drug from five hours to three hours prior to post time. New York liberalized its rule on steroids, just as detection procedures for steroids were being approved. Florida is relaxing its restrictions on bute.

Last May, the Chairman of this Subcommittee warned that he would give the States "one last chance" to act effectively to end the abuses of racehorse drugging. That warning was repeated in August. Yet in the past year, nothing has changed to give the supporters of drug-free racing any hope that the problem will be adequately addressed on the state level.

Today, major racing states still permit horses to race while medicated. Most permit Lasix, which may well render ineffective their rules prohibiting bute and other drugs. Most are without comprehensive pre- and post-race testing programs and adequate laboratory facilities. Only a few have subscribed to the NASRC's Quality Assurance Program.

Despite a seemingly vast majority of interests in favor of a uniform no-drug policy, the racing industry remains torn by divisions and incapable of an effective nationwide response to drugging abuses. John Goodman's 1979 statement was prophetic: the racing jurisdictions can only be as committed as their weakest members, and the fear of losing horses and trainers to more lenient states has inhibited even the most outspoken opponents of drugging. The problem has proven to be incapable of a solution at the state level.

III. FEDERAL LEGISLATION MUST BE ENACTED

AHPA believes that the abuse of medication in horseracing must stop immediately. The Association's principal concern obviously is the welfare of the horses, which have suffered enormously. However, the welfare of jockeys and the interests of the racegoing public, which deserves honest racing, also demand that the drugging crisis in racing come to an end.

S.1043 is in many ways similar to the current NASRC guidelines. Like the guidelines, it forbids horses to race on any "substances foreign to the natural horse," but allows carefully established trace levels of drugs to be present at race-time. Its provisions for the collection and analysis of blood and urine samples, and for the retention of frozen samples for future testing, may be somewhat stronger than the NASRC guidelines but are not substantially different. Both S.1043 and the NASRC rules are intended to bring about the same result: a uniform rule prohibiting drugs, enforced by a competent, comprehensive detection program.

Why, then, does the industry oppose enactment of S.1043? Most critics of the bill claim that the federal government can't be trusted to run the Postal Service, and therefore shouldn't be given the responsibility to clean up horseracing. That argument, however, overlooks two important elements of the bill.

S.1043 provides that the Administrator of D.E.A. may, with a state's consent, utilize its laboratory personnel to assist in the enforcement of the Act. Therefore, the expertise accumulated on the state level will not be lost. A state concerned that a new federal enforcement team will not do an adequate job may make its personnel available.

More important, the bill exempts those states whose drug programs are certified by the Administrator to be comparable to the federal program. A state that is committed to an effective anti-drug program need not be concerned with federal interference with its enforcement program. The effective date of the act is delayed to give the states two years to bring their programs into compliance with federal standards, to enable them to obtain exemptions.

Opponents of federal legislation also have expressed concern about the cost of enforcing S.1043. Effective anti-drug rules will be more expensive to enforce than are many current programs. AHPA believes, however, that the cost of a federal program probably would not exceed the cost of the NASRC medication and testing guidelines. There is little to choose, therefore, between the cost of federal enforcement and the cost of effective state enforcement.

Racing has become a huge interstate industry; in 1981 nearly 78 million people attended thoroughbred and standardbred tracks. Billions of dollars are bet at racetracks. The racing states generate about $700 million each year in revenue from parimutuel wagering. It is inconceivable that drugs should continue to debase the industry, yet the Pandora's box of "permissive medication" hasn't been closed.

The racing states have been aware of the problems of permissive medication and illicit medication for many years. Major figures in the racing industry have called for the elimination of drugs, yet that goal as not been accomplished. The states have had a fair opportunity to clean their own houses, but have shown themselves unable to do so.

AHPA therefore urges the Subcommittee to report S.1043 favorably -- for the horse, the jockey, the bettor and the health of the industry itself.

[Subsequent to the hearing, Mr. Gaspar submitted the following article for the record:]

[From the New York Times]

TRAINER AMONG FOUR INDICTED IN HARNESS RACE FIXING

(By James Tuite)

Four men, including a trainer of harness horses, were indicted by a Federal grand jury in Brooklyn yesterday on charges of conspiring to fix six races at Yonkers and Roosevelt Raceways in 1978.

The four, who are accused of drugging horses in the races, surrendered to the Federal Bureau of Investigation at its office in New Rochelle, N.Y. They are to be arraigned tomorrow in Westbury, L.I., within sight of Roosevelt Raceway.

The accused are John Malizia, 63 years old, of Westbury; Alan Cummings, 34, a trainer from Bronxville, N.Y.; Frank Costanzo, 41, of Westbury, and Lawrence Quartiero, 60, of Jackson Heights, Queens.

FACE 20-YEAR TERMS

Each faces a maximum punishment, on conviction, of 20 years' imprisonment and a fine of $25,000.

The six races cited in the indictment were:

March 22, 1978, third race at Roosevelt, in which a dead heat for first occurred between Say No More and Game Yankee, setting up dual payoffs of $2,953 and $2,059 from the triple pool.

May 10, seventh race at Yonkers, in which the triple returned $270.

May 17, third race at Yonkers, in which the triple paid $3,300. The race was won by Rock C., trained by Cummings.

Sept. 19, the first and second races at Yonkers, constituting both ends of the daily double, which paid $222.60.

Sept. 25, the third race at Yonkers, in which the triple returned $850.50. In a triple the bettors select the order of the first three horses to finish. In a daily double, a bettor tries to pick the first-place finishers in two consecutive races. The payoffs, particularly if the favorites do not figure prominently in the finish, are sometimes in the thousands.

According to Lothar Genge, the special attorney in charge of the grand jury's investigation, the conspiracy involved an effort to inject three or four horses in each race with the tranquilizer resperine.

SAMPLES ARE FROZEN

The number of horses who actually received the drug is unclear, since, according to the authorities, two grooms enlisted to participate in the scheme used a placebo, instead, while cooperating with the Federal investigation.

Once the horses had been injected, the four conspirators would bet all combinations involving non-drugged horses, according to the charges.

During the period to which the indictment referred, resperine was considered to be undetectable in the tests of urine samples taken from all harness horses in New York just before they race. But the F.B.I. arranged for the freezing of all the urine samples taken before the six suspect races. Then, in 1979, a test was developed to uncover the tranquilizer. All samples are now frozen for future testing on the chance that any undetectable drugs in a horse's system will someday become detectable.

According to the indictment, the four defendants, "together with others known and unknown to the grand jury," conspired to bribe grooms at the tracks to assist in the drugging of horses. It specifies that Malizia, a convicted bookmaker, offered to cancel a groom's gambling debt if he would help to "locate and drug horses in specified races."

A second groom also became involved, an investigator said, and both agreed to cooperate with the F.B.I. Neither groom has been identified by the authorities.

The F.B.I. informed the tracks of its surveillance, and ordered them not to conduct their own investigations, for fear of alerting the suspects. At one point, law enforcement sources said, Malizia found that a groom carrying a device to record their conservations and "beat him to a pulp."

A law-enforcement officer said that the conspiracy had proved only "moderately successful." The grooms used a placebo rather than resperine in their drugging syringes, he said, but in one instance a skittish horse was calmed by the tranquilizer and, as a result, won its race.

"These people were experimenting with drugs," he said. "In some ways, they were like the gang that couldn't shoot straight."

However, none of the officials questioned about the investigation could say how much money had been involved.

Sources close to the investigation said that much of the betting money and probably some of the drugs were believed to have come frcm organized crime, which has been the primary target of the inquiry.

Senator **Mathias**. Our next witness is Dr. George Maylin, director, New York State College of Veterinary Medicine.

STATEMENT OF DR. GEORGE A. MAYLIN, ASSOCIATE PROFESSOR OF TOXICOLOGY, NEW YORK STATE COLLEGE OF VETERINARY MEDICINE, CORNELL UNIVERSITY, AND DIRECTOR, NEW YORK STATE RACING AND WAGERING BOARD DRUG TESTING AND RESEARCH PROGRAM

Dr. **Maylin**. Good morning.

Senator **Mathias**. We welcome you to Washington, Dr. Maylin, and to this hearing and to this committee.

Dr. **Maylin**. Thank you, Senator Mathias. I am George Maylin, an associate professor of toxicology at the New York State College of Veterinary Medicine at Cornell University, and director of the New York State Racing and Wagering Board Drug Testing and Research Program.

The widespread use of drugs has caused a national crisis in racing. Existing rules and regulations and many drug testing programs have been shown to be ineffective for control purposes. In 1981, the racing industry acknowledged these deficiencies and reacted by endorsing the NASRC medication guidelines and the associated NASRC uniform drug testing and quality assurance program.

I would like to take this opportunity to comment briefly on the NASRC uniform drug testing and quality assurance program which is presented in full detail in my written submission. I have worked intimately with this program and its development in the past 2 years and certainly in retrospect, I believe we started working on such a concept as early as 1974.

The detection of drugs and their metabolites in blood and urine samples collected from racehorses is very difficult and complex. Virtually an unlimited number of drugs from a variety of sources can be administered to treat ailments therapeutically or to alter their performance illegally. In addition, the imposition of forensic constraints mandate unequivocal identification of substances that are defined as illegal drugs. Despite these constraints, the detection of drugs in horses is not an impossible task. Analytical techniques, instrumentation and resources are available, which, if properly applied and coordinated, can detect and effectively identify drugs used in racing. Effective drug control also requires enforcement of the rules of racing. The two go hand in hand.

Uniform drug testing certified by an acceptable quality assurance program is needed in horseracing. It is needed not only for the fair and equal treatment of horsemen but also for the evaluation and development of the best drug-detection methods. Racing commissions urgently need these so that races can be run fairly and the health and welfare of the horse be protected.

The NASRC uniform drug testing and quality assurance program meets these requirements. It also meets the objectives of the Federal Good Laboratory Practice Regulations, in that results of known and unknown experimental trials are accurately documented, and the results are continuously reviewed and monitored by an impartial quality assurance officer. The NASRC uniform drug testing quality assurance program specifically lists the minimum requirements for laboratory equipment, facilities, personnel, drugs, dose, route of administration, and samples to be analyzed. It also provides a mechanism for monitoring new drugs reaching the racetrack, for coordinating research and development studies and provides a cost-sharing mechanism whereby several participating jurisdictions can secure state-of-the-art analytical service and support.

In summary, the NASRC uniform drug testing and quality assurance program has been developed in response to a need for quality control. It is the most cost-efficient means available for the racing industry to upgrade laboratory capabilities. Presently, New Jersey, New York, Ohio, Pennsylvania, the American Horse Shows Association, and Delaware thoroughbreds are enrolled in the program. Effective July 1, 1982, Arkansas, American Quarter Horse Association, Colorado, Montana, and Wyoming will join.

Simply put, the problem confronting racing in this particular area is the lack of participation in the NASRC uniform drug testing and quality assurance program by a significant number of racing jurisdictions.

Senator **Mathias**. Dr. Maylin, I appreciate your testimony, and the part of your statement you have not read and any accompanying information you have will be made part of the record.

You have been one of the leaders in attacking this problem, and your distinguished record, I think, is well known.

I dislike using the term "racing industry." It seems to me that is a certain indignity. Racing and horsemanship, to me, is an art form. At the very least, it is a sport, and it is only, I think, viewed as an industry in a very limited sense; but, of course, it does involve a lot of money. It involves the transfer of a lot of money. Horses today are very valuable properties. Bettors entrust enormous amounts of money in wagers to the track. So we are talking about an art, yes, a sport, yes, but also a business and an industry, so there is a real element of concern that goes on when the rules of the game can be altered by the abuse of drugs.

Now, is it your judgment that the rules of the game can be altered by the improper administration of drugs and other medications?

Dr. **Maylin**. Yes, drugs can be used to alter performance of horses. Hopefully, what we are providing in the NASRC quality assurance program is a mechanism whereby, during the racing, jurisdictions will immediately have access to the best knowledge available, to remove some of the physical constraints which are often associated with State legislature approval. That is where I refer to it as an industry.

Certainly, I would concur that it is a sport, and it is very near and dear to the hearts of many of us, but we also have to work through the State process and the legislatures to obtain the kind of funding that we would like to have in place.

Senator Mathias. Of course, it doesn't always require the administration of a drug to affect the performance of a horse. Can you use psychological methods, such as rattling a chain, if the horse has been chained previously?

Dr. Maylin. That is correct.

Senator Mathias. But that is just a further challenge to those who want to enforce the fairness and the equity of the rules.

Dr. Maylin. That is true.

Senator Mathias. What about the horse itself? Let us suppose that a horse has a serious physical problem. Does, in your judgment, the improper use of medication before a race enhance the chance of permanent injury?

Dr. Maylin. It is very difficult to take a cripple, if you will, with a serious physical impairment and to allow that horse to race. That would be one end of the spectrum; the other end being a normal, sound horse. An area in between would be a degree of physical impairment, which drugs would affect. It could interfere with the normal protective mechanisms of that horse in racing. It was the intent of the NASRC program to avoid the use of such drugs on race day, the exceptions being furosemide, which many aspects of the racing industry feel they need for bleeding problems, and the anti-inflammatory agents. The intent was not to permit race-day medication, and I think it is generally assumed that with that particular class of drugs, their maximum pharmacological effect has dissipated 24 hours after administration.

Senator Mathias. If the bill, like the Pryor bill, were to become law, how would it affect the number of horses available for racing?

Dr. Maylin. I would think in the short term there would be a reduction in numbers, but I believe they would return; they would come back to a normal level. Certainly in the States where race-day medication is not permitted, and I would say New York is an example, that is possible.

Senator Mathias. If a nation that is dedicated to racing, as Great Britain, prohibits medication at the levels we do and it is able to maintain a good racing program, we should be able to do it, should we not?

Dr. Maylin. I believe so. Their racing schedule is not as full as ours in each particular country, but I believe in a period of time horses would be in plentiful supply.

Senator Mathias. You told us of the quality assurance program. Do you think that the Pryor bill could usefully be amended to include the framework of the quality assurance program? Should we make that a part of this legislation? Would that be a good idea?

Dr. Maylin. I would certainly hope if the bill were passed, that the work we have done would be incorporated. We have spent over 2 years developing the program, we talked to many people in Federal agencies and I believe it is fair to say that this is one of the finest programs that could be developed and probably is the finest program of quality control in any industry.

Senator MATHIAS. Let's talk a little about the economics of this problem.

It has been testified that the aggregate State take is about $450 million. Would you agree roughly with that figure?

Dr. MAYLIN. I believe that is approximately correct.

Senator MATHIAS. Do you know what the aggregate State expenditure on enforcement is today?

Dr. MAYLIN. I do not have those figures, but I believe that testing costs are approximately $5 million for all the jurisdictions. That is a rough approximation.

Senator MATHIAS. Well, if you are even close to right, and we will establish that figure for this record, then the Justice Department's estimate of $50 million in cost for the Pryor bill would indicate, well, maybe that the States aren't doing enough.

Dr. MAYLIN. I am not sure what the $50 million estimate includes. If it includes padlock security, surveillance, veterinarians, then my figure would be markedly low, and I am not aware of anyone who has tried to come up with such a figure. But as far as the laboratory expenses involved in testing, it would be approximately $5 million.

Senator MATHIAS. Assuming again, and we are making some broad assumptions here, assuming the Justice Department figure for the laboratory work, the testing and the equipment and the technicians, is approximately correct, it appears that the current expenditure is not as much as it needs to be.

Dr. MAYLIN. I would agree that a number of jurisdictions are not spending enough for this purpose.

Senator MATHIAS. Thank you very much, Dr. Maylin. It is a pleasure to have you here.

Dr. MAYLIN. Thank you.

[The NASRC report presented by Dr. Maylin follows:]

NASRC UNIFROM DRUG TESTING AND QUALITY ASSURANCE PROGRAM

CORNELL
RESEARCH AND REFERENCE CENTER

PRESENTED BY

GEORGE A. MAYLIN

The Quality Assurance Program of the New York State Racing and Wagering Board Drug Testing and Research Program was initiated in 1978. Drug trials have been selected to evaluate laboratory performance, standardize analytical methodology, improve laboratory performance, train new employees and evaluate personnel. Drug trials, which have been used in the program are listed in Appendix A.

The Cornell Research and Reference Center will provide quality assurance samples to contractual jurisdictions in accordance with the NASRC Uniform Drug Testing and Quality Assurance Progaram (Appendix B).

Services Provided by the Cornell Research and Reference Center:

1. Drug administration trials will be provided in accordance with the NASRC program (Appendix B).

2. Cornell will provide assistance to contractual jurisdictions in all aspects of quality assurance if requested. For purposes of evaluation, data acquired in the drug administration trials outlined in Appendix A will be used.

3. Data, results and knowledge generated in the quality assurance program cannot be considered confidential. Because of forensic implications, this information is subject to subpeona.

4. Quality assurance samples will be accompanied by a bill for services rendered. Cost will be $1,000.00 per trial.

APPENDIX A

UALITY ASSURANCE SAMPLES 1978

X	DATE	DRUG ADMINISTERED	DOSE	KNOWN (K) or UNKNOWN (U)	SAMPLES (hours post administration)
	/7/78	Apomorphine	18mg I.M.	K	U-4,6,8,26
	3/14/78	Caffeine	2gm P.O.	U	P-0,2,4,6,8 U-0,1,2,3,4,5,6,7,8
	3/14/78	Caffeine	2gm I.M.	U	P-0,1,2,3,4,5,6,7,8 U-0,1,2,3,4,5,6,7,8
	3/16/78	Theophylline	1gm I.V.	K	P-0,2,4,6,8 U-0,8
	3/22/78	Phenylbutazone	2gm I.V.	U	P-0,14 U-5,6,7
	3/22/78	Phenylbutazone	4gm P.O.	U	P-0,14,24,38,45,48,54, U-5,6,7,24,25,26,54,55
	4/3/78	Methylphenidate	100mg I.M.	K	P-0,1,2,4,8 U-0,2,4,6,8
	4/4/78	Mephentermine	100mg I.M.	U	P-0,1,2,4,6,8 U-0,1,2,4,6,8
	4/4/78	Pentazocine	300mg I.M.	K	P-0,1,2,4,6,8 U-0,2,4
	4/5/78	Phenylbutazone	2gm I.V.	K	P-0-60 U-0,60
	4/5/78	Phenylbutazone	4gm P.O.	K	P-0-60 U-0,54
	4/12/78	Phenylbutazone	2gm I.V.	K	P-0-60 U-0,8,32,56
	4/13/78	Phenylbutazone	4gm P.O.	K	P-0-60 U-7,25,53,55
	4/14/78	Furosemide	350mg I.M.	K	P-0,1,2,4,6 U-0,6
	4/17/78	Furosemide	100mg I.V.	K	P-0-60 U-0-57
	4/19/78	Phenylbutazone	2gm I.V.	K	P-0-60 U-0-57
	4/19/78	Phenylbutazone	4gm I.V.	K	P-0-60 U-0-56
	4/26/78	Phenylbutazone	4gm P.O.	K	P-0-60 U-0 56
	4/26/78	Phenylbutazone	2gm I.V.	K	- - -
	5/15/78	Caffeine	300mg I.M.	K	P-0-48 U-0-52
1	5/22/78	Furosemide	350mg I.V.	U	P-0,4,7 U-0,1,2,4,7
2	5/25/78	Acepromazine	60mg I.V.	U	U-0,1,2,3
3	7/10/78	Methylphenidate	100mg I.V.	K	U-0,1,2,3,5
4	7/10/78	Furosemide	350mg I.V.	U	P-0,2,4,6,8 U-0,2,4,6,8
5	7/13/78	Procaine	40mg S.C.	U	U-0,1,3,4,6,8,24
6	7/17/78	Xylazine	50mg I.V.	U	U-0,1,2
7	7/17/78	Meperidine	100mg I.V.	K	U-0,1,2,4,6,8
8	7/25/78	Flunixin	350mg I.V.	K	U-0,3,5,7,24,27,29,31
9	8/3/78	Mepivacaine	200mg I.M.	K	U-0,2,4,6,8
10	8/11/78	Pentazocine	100mg I.M.	U	U-0,2,5,6,8
11	8/14/78	Xylazine	20mg I.M.	U	U-0,1,2,3,5,7

12	8/14/78	Meclofenamic Acid	1gm P.M.	U	P-0,4,8,14,19,24,28,32 39,48 U-0,2,4,8,14,16,21,28
13	8/21/78	Apomorphine	18mg I.M.	U	U-0,3.6,8
14	8/28/78	Ephedrine	500mg I.M.	U	U-0,1,3,5
15	8/28/78	Methylphenidate	200mg I.V.	U	P-0,1,6 U-0,1,2.3,4,6,8
16	9/5/78	Naproxen	4gm P.O.	U	P-0,4,8.15,19,24,32,39 43,48 U-0,1,3,6,15,17,21,25 30,41.48
17	9/5/78	Ibuprofen	1gm P.O.	U	U-0,2,4,6,8.16,22,39,44
18	9/18/78	Phenylpropanolamine	500mg I.M.	K	P-0,2,4,6,8 U-0,1,2,3,4,5,6,7,8
19	10/9/78	Methocarbamol	2.5gm I.V.	K	P-0,2,4.6.8 U-0,1,2,4,6,8
20	10/9/78	Flunixin	500mg I.M.	K	P-0,4,7,15 U-0,2,7.16,24,30,40,48
21	10/9/78	Mepivacaine	100mg I.M.	K	U-0,2,4.6,8
2.	10/26/78	Reserpine	2.5mg I.M.	K	P-0,8,24.32,48,56,72,
23	11/21/78	Trichlormethiazide	400mg P.O.	K	U-0,1.2,4,6,7,8
24	11/13/78	Promazine	150mg I.V.	K	U-0,1,2,4,6,8
25	12/4/78	Acepromazine	30mg I.V.	K	U-0,1,3,4,5,6

QUALITY ASSURANCE SAMPLES 1979

DX	DATE	DRUG ADMINISTRATION	DOSE	KNOWN (K) or UNKNOWN (U)	SAMPLES (hours post administration)
[illegible]	4/16/79	M.W. 163	- - -	K	U-pooled sample
27	4/16/79	Phenylbutazone	2gm I.V.	K	P-0,8.28,48,56 U-0,4,8,26,32.50,56
28	4/16/79	Furosemide	250mg I.V.	K	P-0,1,4 U-0,0.3,1.4,8
29	4/23/79	Caffeine	2gm I.M.	K	P-0,4,8 U-0,4,6,8
30	4/23/79	Theophylline	1gm I.V.	K	P-0,4,8 U-0,2,4,6,8
31	4/30/79	Flunixin	350mg I.V.	K	P-0,8,24,31½.48 U-0,2,4,6,8.24,26,28,29 31½.38
32	4/30/79	Naproxen	4gm P.O.	K	P-0,8,24,30,48 U-0,2,4,6,8.24,26,29½ 30,32,48
33	5/8/79	Trichlormethiazide	4mg P.O.	K	P-0,4,7,24,31 U-0,2,4,6,8,24,26,28½ 30
34	5/8/79	Hydrochlorothiazide	100mg I.V.	K	P-0,4,8,24,31 U-0,2,4,6.8.24,26,28, 30,31
36	5/14/79	Fentanyl	.5mg I.V.	K	U-0,2,4,6
37	5/14/79	Butorphanol	50mg I.M.	K	U-02,4,6,8
38	5/14/79	Trichlormethiazide	100mg I.V.	K	U-0,2,4,6
39	5/21/79	Caffeine	2mg I.M.	U	U-6
40	5/21/79	Theophylline	1gm I.V.	U	U-6
41	5/29/79	Promazine	150mg I.V.	K	U-0,2,4,6,8

4	5/29/79	Apomorphine	18mg I.M.	K	U-0,2,4,6
43	5/29/79	Pentazocine	100mg I.M.	K	U-0,1,2,4,6,8
44	6/4/79	Methylphenidate	200mg I.M.	K	U-0,3,8
45	6/4/79	Flunixin	350mg I.M.	U	U-6
46	6/4/79	Phenylbutazone & Furosemide	2gm IV-PB	U	U-24 3/4-PB; 15"-Fur
47	6/11/79	Xylazine	50mg I.V.	K	U-0,1,3,5,7
4	6/11/79	Meclofenamic Acid	1gm PO	K	P-0,8,24,30 U-0,2,4,6,8,24,26,28,
49	6/18/79	Acepromazine	30mg I.V.	K	U-0,2,4,6,8
50	6/18/79	Procaine	40mg SC	K	U-0,3,5,7
51	6/25/79	Methocarbamol	2gm I.V.	K	P-0,4,8 U-0,2,4,6,8
52	6/25/79	Ibuprofen	1gm PO	K	U-0,2,4,8
53	7/2/79	Pentazocine	100mg I.M.	U	U-pooled sample
54	7/2/79	Phenylbutazone	2gm I.V.	U	24½ - U
55	7/9/79	Indomethacin	500mg PO	K	U-0,2.46
56	7/9/79	Phenylpropanolamine	500 mg I.M.	K	P-0,2,4,8 U-0,2,4,6,8
5	7/16/79	Apomorphine	18mg I.M.	U	U-3
58	7/16/79	Meclofenamic Acid	1gm PO	U	U-6
59	7/23/79	Ephedrine	500mg I.M.	K	U-0,2,4.8
60	7/23/79	Chlorothiazide	4gm PO	K	U-0,2,6
61	7/30/79	Promazine	150mg I.V.	U	U-2
62	7/30/79	Methylphenidate	200mg I.M.	U	U-3
63	8/6/79	Meperidine	100mg I.V.	K	U-0,1,4.8
64	8/6/79	Phenylbutazone	2gm I.V.	U	U-24
65	8/13/79	Nalbuphine	60mg I.M.	K	U-0,2,4,8
66	8/13/79	Phenylbutazone	2gm I.V.	K	U-0,8,24,32,48,56
67	8/20/79	Hydrochlorothiazide	300mg I.M.	K	U-0,4,29,46,48,51,70
68	8/20/79	Chlorothiazide	10gm PO	K	U-0,4,6,32
69	8/27/79	Thiosalicylic Acid	550mg I.M.	K	P-0,2,4,8
70	8/27/79	Xylazine	50mg I.V.	U	- - -
71	9/4/79	Sulindac	2gm PO	K	U-0,2,4,6,8
72	9/4/79	Lidocaine	400mg I.M.	K	U-0,2,4,5.8
73	9/10/79	Trichlormethiazide	100mg I.V.	U	U-4
74	9/10/79	Hydrochlorothiazide	100mg I.V.	U	U-2
75	9/17/79	Acepromazine	30mg I.V.	U	U-2
76	9/17/79	Procaine	40mg SC	U	U-3
77	9/24/79	Naproxen	4gm PO	K	U-0,2,6,8
78	9/24/79	Flunixin	350mg I.V.	K	U-0,2,4,5,6,7,24
79	10/1/79	Xylazine	50mg I.V.	K	U-0,2,4,6,8
80	10/1/79	Butorphanol	50mg I.M.	U	U-4
81	10/1/79	Nalbuphine	60mg I.M.	U	U-2
82	10/8/79	Methocarbamol	2gm I.V.	U	U-2
83	10/8/79	Ephedrine	500mg I.M.	U	U-6
4	10/15/79	Phenylpropanolamine	500mg I.M.	U	U-5
85	10/15/79	Indomethacin	500mg PO	U	U-3

86	10/29/79	Chlorothiazide	4gm PO	U	U-6
87	10/29/79	Sulindac	2gm PO	U	U-4
88	11/5/79	Phenylbutazone	2gm I.V.	K	P-0,7,24,31,48 U-0,1,7,24,31,48
89	11/12/79	Methadone	100mg I.M.	K	U-0,2,6
90	11/12/79	Oxymorphone	10mg I.M.	K	U-0,2,6
91	11/19/79	Methamphetamine	100mg I.M.	K	U-0,2,4,7
92	11/19/79	Meclofenamic Acid	1gm PO	K	P-0,4,24,48 U-0,4,21,44,48
93	11/26/79	Furosemide	250mg I.V.	U	U-1.5
94	11/26/79	Flunixin	350mg I.V.	U	U-5
95	12/3/79	Meperidine	100mg I.V.	U	U-2
96	12/3/79	Naproxen	4gm PO	U	U-6
97	12/10/79	Methamphetamine	100mg I.M.	U	U-4
98	12/10/79	Oxymorphone	10mg I.M.	U	U-5
99	12/17/79	Meclofenamic Acid	1gm PO	U	U-24
100	12/17/79	Phenylbutazone	2gm I.V.	U	U-3

QUALITY ASSURANCE SAMPLES 1980

DX	DATE	DRUG ADMINISTERED	DOSE	KNOWN (K) or UNKNOWN (U)	SAMPLES (hours post administration)
101	1/28/80	Furosemide	250mg I.V.	K	U-½,1,3,6
102	1/28/80	Nalbuphine	60mg I.M.	U	U-4
103	2/4/80	Promazine	40mg I.M.	K	U-0,4,24
104	2/4/80	Sulindac	2gm PO	U	U-6
105	2/11/80	Phenylbutazone	2gm I.V.	K	P-24 U-0,2,9,24,30,48
106	2/11/80	Flunixin	350mg I.V.	U	U-5
107	2/18/80	Chlorothiazide	3gm PO	K	U-2,8,25,32,50
108	2/18/80	Meperidine	100mg I.V.	U	U-5
109	2/25/80	Nefopam	50mg PO	K	U-0,2,8
110	2/25/80	Methamphetamine	100mg I.M.	U	U-4
111	3/3/80	Methadone	100mg I.M.	U	U-4
112	3/3/80	Meclofenamic Acid	1gm PO	U	U-24
113	3/10/80	Theophylline	500mg I.V.	K	U-0,2,8
114	3/10/80	Fentanyl	.25mg I.V.	U	U-2
115	3/12/80	Pentazocine	90mg I.V.	K	U-0,2,8
116	3/12/80	Chlorothiazide	3gm PO	U	U-8
117	3/24/80	Phenylbutazone	2gm I.V.	U	P-24
118	3/24/80	Thiosalicylic acid	500mg I.M.	K	U-0,2,8
119	3/31/80	Flunixin	350mg I.M.	U	U-4
120	3/31/80	Naproxen	4gm PO	U	U-6
121	4/7/80	Hydrochlorothiazide	100mg I.V.	K	U-0,2,8,24
122	4/7/80	Nefopam	50mg PO	U	U-6

123	4/15/80	Methocarbamol	2gm I.V.	K	U-0,1,8
124	4/15/80	Theophylline	500mg I.V.	U	U-4
125	4/21/80	Dipyrone	1gm I.V.	K	U-0,2,8,24
126	4/21/80	Fentanyl	.25mg I.V.	U	U-2
127	4/28/80	Furosemide	200mg I.V.	K	U-0,1.8,25
128	4/28/80	Pentazocine	90mg I.V.	U	U-4
9	5/5/80	Acepromazine	30mg I.V.	K	U-0,2.24
130	5/5/80	Hydrochlorothiazide	100mg I.V.	U	U-6
131	5/12/80	Indomethacin	500mg PO	K	U-0,2,24
132	5/12/80	Methocarbamol	2gm I.V.	U	U-4
133	5/19/80	Methylphenidate	50mg I.V. 50mg I.M.	K	U-0,2.8
134	5/19/80	Dipyrone	1gm I.V.	U	U-6
135	5/12/80	Reserpine	2.5mg I.M.	K	P-0,8,24,48,72
136	5/27/80	Mephentermine	60mg I.M.	K	U-0,2,4,7
137	5/27/80	Apomorphine	18mg I.M.	K	U-0.2,6
138	6/2/80	Phenylbutazone	2gm I.V.	K	P-0,6.24,48,54 U-0,1.7,22,30,46,54
1[illegible]	6/9/80	Thiosalicylic acid	500mg I.M.	K	U-0,3,8,29
140	6/9/80	Theophylline	500mg I.V.	K	P-0,2,8,24.28 U-0,2,8.28
141	6/16/80	Caffeine	500mg I.M.	K	U-0,2,8,28
142	6/16/80	Flunixin	500mg I.V.	K	P-0,2,8 U-0,8,26,48
143	6/23/80	Meperidine	100mg I.V.	K	U-0,2.8,24
144	6/23/80	Nalbuphine	60mg I.M.	K	U-0,2,8
145	6/30/80	Methadone	100mg I.V.	K	U-0,2,8,24
146	6/30/80	Butorphanol	60mg I.M.	K	U-0,1,8
147	7/7/80	Guaiacol glyceryl ether	5gm IV	K	U-0,2,8,28
148	7/7/80	Furosemide	200mg I.V.	U	U-1
149	7/14/80	Theophylline	500mg I.V.	U	U-4
150	7/14/80	Caffeine	500mg I.M.		U-4
151	7/21/80	Flunixin	500mg I.V.	U	U-6
152	7/21/80	Nalbuphine	50mg I.M.	U	U-4
153	7/28/80	Meperidine	100mg I.V.	U	U-4
154	7/28/80	Methadone	100mg I.V.	U	U-4
1	8/4/80	Procaine	2.8gm PO	K	U-0,8,24,32,52,72,77
156	8/4/80	Procaine	80mg SC	K	U-0,2,6,24
157	8/11/80	Naproxen	4gm PO	U	U-4
158	8/11/80	Guaiacol glyceryl ether	2.8gm PO	K	U-0,2,8,24
159	8/18/80	Codeine	500mg PO	K	U-0,2,8,24
160	8/18/80	Phenylbutazone	2gm I.V.	U	U-2
161	8/25/80	Phenylpropanolamine	500mg I.M.	K	U-0,1.8,16,24
162	8/25/80	Acepromazine	30mg I.V.	U	U-6
163	9/2/80	Naproxen	4gm PO	K	P-0,6,17,24,32 U-0,2,8,17,24,32

164	9/2/80	Chlorothiazide	3gm PO	U	U-4
165.	9/8/80	Meclofenamic acid	1gm PO	U	U-21
166	9/8/80	Nefopam	50mg PO	U	U-2
167	9/15/80	Theophylline	500mg I.V.	U	U-8
168	9/15/80	Pentazocine	90mg I.V.	U	U-5
169	9/22/80	Flunixin	500mg I.V.	K	U-0,2,8,16,24
170	9/22/80	Furosemide	200mg I.V.	U	U-8
171	10/20/80	Methylphenidate	50mg I.V.	U	U-2
172	9/29/80	Flunixin	500mg I.V.	K	P-0,8,16,20,24
173	9/29/80	Hydrochlorothiazide	100mg I.M.	U	U-8
174	10/6/80	Thiosalicylic acid	500mg I.M.	U	U-4
175	10/6/80	Methocarbamol	2gm I.V.	U	U-6
176	10/13/80	Phenylbutazone	2gm I.V.	U	P-24
177	10/13/80	Indomethacin	500mg PO	U	U-6
178	10/20/80	Dipyrone	1gm I.V.	U	U-8
179	10/27/80	Pentazocine	90mg I.V.	K	U-0,2,8,16,23
180	10/27/80	Furosemide	150mg I.V.	K	U-0,15",1,4,8
181	11/3/80	Nefopam	50mg PO	K	U-0,2,8
182	11/3/80	Apomorphine	18mg I.M.	U	U-4
183	11/10/80	Nikethamide	750mg I.M.	K	U-0,2,4,6
184	11/10/80	Nalbuphine	60mg I.M.	U	U-6
185	11/17/80	Zomepirac	100mg PO	K	U-0,2,8
186	11/17/80	Flunixin	500mg I.V.	U	U-28
187	11/24/80	Lidocaine	50mg SC	K	U-0,2,8
188	11/24/80	Theophylline	500mg I.V.	U	U-24
189	12/1/80	Meclofenamic acid	1gm PO	K	P-0,15,21,39,45 U-0,15,21,39,45
190	12/1/80	Methadone	100mg I.M.	U	U-4
191	12/8/80	Trichlormethiazide	400mg PO	K	U-0,2,8,25,33,50
192	12/8/80	Meperidine	100mg I.V.	U	U-8
193	12/15/80	Codeine	500mg PO	U	U-6
194	12/15/80	Caffeine	500mg I.V.	U	U-28

QUALITY ASSURANCE SAMPLES 1981

DX	DATE	DRUG ADMINISTERED	DOSE	KKNOWN (K) UNKNOWN(U)	SAMPLES (hours post administration
195	1/26/81	Propionylpromazine	10mg I.M.	K	U-0,2,8
196	1/26/81	Guaiacol glyceryl ether	5gm I.V.	U	U-8
197	2/3/81	Sulindac	1gm P.O.	K	P-0,4,8 U-0,4,8
198	2/2/81	Phenylpropanolamine	500mg I.M.	U	U-24
199	2/9/81	Caffeine	500mg I.M.	K	U-0,16,23
200	2/9/81	Flunixin	500mg I.V.	U	U-8
201	2/16/81	Morphine	120mg I.M.	K	U-0,2,8

202	2/16/81	Procaine	2.8mg P.O.	U	U-32
203	2/23/81	Nalbuphine	50mg I.M.	K	U-0,2,6
204	2/23/81	Hydrochlorothiazide	100mg I.V.	U	U-6
2	3/2/81	Acepromazine	5mg I.V.	K	U-0,2,6
206	3/2/81	Chlorothiazide	3gm P.O.	U	U-6
207	3/9/81	Naproxen	4gm P.O.	K	U-0,2,8,19,30
208	3/9/81	Nefopam	50mg P.O.	U	U-8
209	3/16/81	Procaine	2.8gm P.O.	K	U-0,8,26,32
210	3/16/81	Theophylline	500mg I.V.	U	U-8
211	3/23/81	Guaiacol glyceryl ether	2.8gm P.O.	K	U-0,2,8
212	3/23/81	Thiosalycylic Acid	500mg I.M.	U	U-8
213	3/30/81	Phenylpropanolamine	500mg I.M.	K	U-0,1,8,22
214	3/30/81	Methocarbamol	2gm I.V.	U	U-8
21	4/6/81	Caffeine	500mg I.M.	K	U-0,2,8,24
216	4/6/81	Indomethacin	500mg P.O.	U	U-6
217	4/13/81	Flunixin	500mg I.V.	K	U-0,2,8,16,24
218	4/13/81	Butorphanol	6mg I.M.	U	U-4
219	4/20/81	Lidocaine	40mg S.C.	K	U-0,1,3,5,8
220	4/20/81	Naproxen	4gm P.O.	U	U-32
221	4/27/81	Nikethamide	750mg I.M.	K	U-0,2,4,8,24
22	4/27/81	Furosemide	150mg I.V.	U	U-4
223	5/4/81	Nefopam	100mg P.O.	K	U-0,2,8
224	5/4/81	Acepromazine	5mg I.V.	U	U-6
225	5/11/81	Promazine	50mg I.V.	K	U-0,2,8
226	5/11/81	Methadone	100mg I.V.	U	U-6
227	5/18/81	Nefopam	200mg P.O.	K	U-0,2,32
228	5/18/81	Dipyrone	1gm I.V.	U	U-6
229	5/25/81	Apomorphine	12mg I.M.	K	U-0,2,6
230	5/25/81	Meperidine	100mg I.V.	U	U-6
231	6/1/81	Procaine	500mg I.M.	K	U-0,2,8,30
232	6/1/81	Apomorphine	18mg I.M.	U	U-4
233	6/8/81	Mephentermine	60mg I.M.	K	U-0,2,4.8
234	6/8/81	Meclofenamic acid	1gm P.O.	U	U-24
235	6/15/81	Methadone	100mg I.M.	K	U-0,2,8
236	6/15/81	Pentazocine	90mg I.V.	U	U-8
237	6/22/81	Clenbuterol	.3mg P.O.	K	U-0,2,8,24,32
238	6/22/81	Sulindac	1gm P.O.	U	U-6
239	6/29/81	Flunixin	500mg I.V.	K	P-0,4,24,32,39,43 U-0,2,24,39,48
240	6/29/81	Nalbuphine	50mg I.M.	U	U-4
241	7/6/81	Thiosalicylic acid	500mg I.M.	K	P-0,4,8,24 U-0,2,8,24
2	7/6/81	Codeine	500mg P.O.	U	U-24
243	7/13/81	Ethylaminobenzoate	-----	K	U-0,pooled

244	7/13/81	Guaiacol glyceryl ether	2.86gm P.O.	U	U-6
245	7/20/81	Meperidine	150mg I.V.	K	U-0,2,8,24
246	7/20/81	Promazine	50mg I.V.	U	U-8
247	7/27/81	Chlorothiazide	4gm P.O.	K	U-0,1,2,7
248	7/27/81	Flunixin	500mg I.V. 3 days	U	U-6
249	8/3/81	Naproxen	4gm P.O.	K	P-0,16,24,40 U-0,16,24,40
250	8/3/81	Morphine	90mg I.M.	U	U-0,2,8
251	8/10/81	Ephedrine	250mg P.O.	K	U-0,2,6,24
252	8/10/81	Reserpine	2.5mg I.M.	U	P-0,6
253	8/17/81	Trichlormethiazide	400mg P.O.	K	U-0,2,8,24
254	8/17/81	Flunixin	500mg I.V.	U	P-16
255	8/24/81	Nalbuphine	50mg I.M.	K	U-0,2,8,18,24
256	8/24/81	Thiosalicylic acid	500mg I.M.	U	U-4,32
257	8/31/81	Fentanyl	.5mg I.V.	K	U-0,1.5,3,6
258	8/31/81	Theophylline	500mg I.V.	U	U-0,24
259	9/8/81	Butorphanol	20mg I.M	K	U-0,2,8,24
260	9/8/81	Furosemide	150mg I.V.	U	U-0,3
261	9/14/81	Methocarbamol	1.[illegible]gm I.V.	K	U-0,2,8,22
262	9/14/81	Hydrochlorothiazide	100mg I.V.	U	U-0,24
263	9/21/81	Oxymorphone	15mg I.M.	K	U-0,2,6,8,23
264	9/21/81	Phenylpropanolamine	500mg I.M.	U	U-0,18
265	9/28/81	Phenylbutazone	2gm I.V.	K	P-0,15,24,39,48
266	9/28/81	Nefopam	200mg P.O.	U	U-28
267	10/5/81	Phenylpropanolamine	225mg I.M.	K	U-0,2,8,24,30
268	10/5/81	Meperidine	150mg I.V.	U	U-6
269	10/12/81	Hydromorphone	16mg I.M.	K	U-0,2,4,8
270	10/19/81	Meclofenamic acid	1gm P.O.	K	U-0,8,16,24,32,44
271	10/26/81	Caffeine	450mg I.M.	K	P-0,4,8,28 U-0,4,8,28
272	10/26/81	Naproxen	4gm P.O.	U	U-20
273	10/2/81	Indomethacin	500mg P.O.	K	U-0,4,8,28
274	10/2/81	Meclofenamic acid	1gm P.O.	U	P-12
275	11/9/81	Pentazocine	75mg I.V.	K	U-0,2,8,17,28

APPENDIX B

NASRC UNIFORM DRUG TESTING AND QUALITY ASSURANCE PROGRAM

Prepared by:

NASRC Medication Committee

SUMMARY

1. It is recommended that a national, uniform drug testing and quality assurance program be established to improve the control of prohibited drugs in racing.

2. The feasibility of a uniform drug testing and quality assurance program has been demonstrated in an NASRC pilot project using drug administration trials. Chemists from a number of racing jurisdictions determined that thin layer chromatography combined with specific testing methods such as gas chromatography and radioimmunoassay provides highly sensitive screening techniques for a wide variety of compounds while mass spectrometry provides the best means of unequivocal identification.

3. Uniform drug testing and quality assurance programs require that racing jurisdictions standardize laboratory personnel, equipment, facilities, funding and rules of racing.

4. The quality assurance program recommended for adoption as part of the NASRC Medication Guidelines are as follows:

    a. Selected drugs will be administered according to known and/or racetrack doses.

    b. Appropriate samples of blood and urine will be collected to define either clearance times or scope of analytical methods. Plasma and urine will be frozen until analyzed.

    c. Representative samples of plasma and urine will be analyzed at the Research and Reference Center by means of standard methods. Photographs will be taken to demonstrate the results.

    d. Samples of plasma, urine and reference compounds along with pictures, data relevant to the particular drug and additional information such as its pharmacology and special tips on analytical methodology will be sent to each laboratory.

    e. Subsequent to analyses of known drug trials, unknown samples will be distributed to ascertain the efficiency and efficicacy of the laboratories.

f. Laboratories will be required to return written documentation and photographs of all results obtained from known and unknown quality assurance samples on a timely basis.

g. The Quality Assurance Officer will examine all data so that standard methodology, individual laboratory performance and individual chemists and technicians can be evaluated.

h. The most important aspect of the Quality Assurance Program will be the exchange of information between Research and Reference Centers and Laboratories. Although the primary objective of the program is to assure the competency of the laboratory, improvements in standard methodology, laboratory results and expertise of chemists and technicians are to be expected.

GENERAL CONSIDERATIONS

The detection of drugs and their metabolites in biological fluids is a challenging analytical problem. The analysis of blood and urine samples collected from racing animals for the detection and identification of drugs is particularly difficult and complex. Virtually an unlimited number of drugs from a variety of sources can be administered to treat ailments therapeutically and to alter their performance illegally. Further, the imposition of forensic constraints mandate unequivocal identification of substances that are defined as illegal drugs.

The widespread use of drugs has caused a national crisis in racing. Controlled medication programs have been blatantly abused and potent new drugs continue to find their way to the racetrack despite extensive surveillance and control procedures. Thus, it is apparent that the existing rules and regulations of racing and the capabilities of drug testing programs are inadequate for control purposes. Time is running out. Unless the racing industry unites to take full and effective control of drug use in the racehorse, adverse publicity will continue to tarnish the image of racing and eventually federal legislation will be passed to govern the medication issue.

The purpose of this report is to outline a program whereby it will be economically feasible for all racing jurisdictions to have improved drug testing programs. Each jurisdiction will have access to improved and expanded research data through a coordinated, national research effort. Also, a quality assurance program will be developed in accordance with the proposed NASRC Medication Guidelines and similar to the Federal Good Laboratory Practices Regulations. Through research studies in analytical chemistry, drug metabolism, pharmacokinetics (clearance times) and pharmacological effects, uniform drug testing protocols certified by a quality assurance program will be developed which are capable of detecting and controlling drug abuse in horses.

UNIFORM TESTING

One of the major criticisms of drug testing in the United States is the lack of uniformity concerning the use and detection of drugs. The proposed NASRC Medication Guidelines have addressed the problem of uniform medication. The resultant rules will provide a viable solution to the problem. Similarly, the lack of uniformity in drug testing must be addressed and resolved.

Selection of the analytical scheme best suited for the detection of drugs in racing animals depends on a number of factors including the quality and number of personnel, the adequacy of equipment and facilities, the level of research support, the commitment of the jurisdiction to the effort, the level of financial support and the rules of racing in that jurisdiction. Uniform testing requires that all laboratories normalize these constraints where they exist. Until this is done, implementation of uniform testing is not possible. The feasibility of a coordinated, uniform testing program has been demonstrated in the NASRC pilot projects.

QUALITY ASSURANCE

Quality assurance is an essential component of all clinical and toxicological programs. In most instances, laboratories must be certified through mandatory state and/ or federal programs. Membership in professional peer organizations is usually not sufficient for certification. For example, the Federal Good Laboratory Practice Regulations have been enacted to ensure that established industry standards for nonclinical testing laboratories are met despite the fact that participating laboratories and personnel are members of various peer groups.

An acceptable quality assurance program must be capable of ensuring that industry standards are met. In addition to the overall results of the laboratory, individuals must be evaluated so that deficiencies can be corrected. As outlined in the Federal Good Laboratory Practice Regulations, quality assurance can best be enacted through a Quality Assurance Unit (QAU) which operates independent and seperate from the testing facility. Daily, weekly, monthly and yearly surveillance reports of the testing facilities are recorded for review by appropriate agencies.

The feasibility of a Quality Assurance Program for equine drug testing has been demonstrated in the NASRC pilot project. Based on these results it is apparent that drugs must be administered to horses and dogs so that blood and urine can be analyzed for drugs and/or metabolites. Even though similar testing methods have been used in this trial, those laboratories which did not have appropriate metabolites could not detect the drug administered.

RESEARCH

The advancement of drug testing depends on available knowledge acquired through research. Research studies in analytical chemistry, drug metabolism, clearance times and pharmacological effects are required in order to develop effective chemical tests and to elucidate the pharmacological properties of drugs. Presently, drugs which have been available for several decades still present problems in detection and control because they have not been studied adequately. The new experimental drugs which are reaching the racetrack by the dozen will require well funded, concerted research efforts in order to control their abuse.

SPECIFIC RECOMMENDATIONS

Specific recommendations which would permit laboratories to follow uniform testing protocols, have quality assurance programs and conduct research studies are detailed below:

1. Laboratory equipment

The following laboratory equipment must be available:

A: Routine drug screening and confirmation:

- i. equipment for liquid-liquid extraction or comparable method,

- ii. equipment for microtechnique thin-layer chromatography,
- iii. liquid scintillation counter and equipment for radioimmunoassay,
- iv. gas chromatographs equipped with flame ionization, electron capture and thermionic specific (nitrogen phosphorous) detectors,
- v. high performance liquid chromatographs equipped with ultraviolet absorption and fluorescence detectors,
- vi. ultraviolet-visible spectrophotometer,
- vii. infra-red spectrophotometer,
- viii. gas chromatograph/mass spectrometer/data system.

B. Quality Assurance

- i. testing equipment outlined above in A
- ii. experimental horses for drug administrations

C. Research studies in analytical chemistry, pharmacokinetics, pharmacological effects

- i. NMR (nuclear magnetic resonance spectrometer - 90 MHz)
- ii. electrophysiological recording equipment
- iii. computer for statistical analysis
- iv. horses for drug administration trials, animal models, exercise physiology studies
- v. radiotracer instrumentation

2. Facilities

Each laboratory must have adequate facilities for routine drug screening, special analytical tests and confirmation of positive findings. In addition, those laboratories conducting research and quality assurance should have facilities to support the conduct of that research.

3. Personnel

Each laboratory requires the services of the following personnel:

i. Laboratory Director
ii. Analytical chemist or other similarly trained scientist with a PhD
iii. Pharmacologist/Toxicologist
iv. Veterinarian
v. Technical staff - drug analysis
vi. Quality Assurance Unit
    - Officer
    - Technical Staff

In order to be effective and maintain continuity in the control of illegal drug use, race testing laboratories require state-of-the-art research and development, state-of-the-art technology and state-of-the-art competency of scientific staff. Slowly, racing jurisdictions are becoming cognizant of these facts. However, all too often, racing jurisdictions have been unable to attract and/or retain high caliber scientists due to unrealistic salaries and therefore quality of testing has suffered. In order to recruit and retain qualified staff, salaries must be commensurate and competitive with equivalent positions in other industries. Salaries must be reviewed annually, compared and adjusted in light of national surveys conducted by professional organizations. Adequate compensation must be given to the laboratory staff because not only are they required to be expert scientists, they are also required to be expert witnesses in legal proceedings.

Realistically, most racing jurisdictions will be unable to establish their own program of uniform testing, quality assurance and research as outlined above due to fiscal constraints. For this reason, a coordinated, national program must be developed so that each jurisdiction has access to equal expertise, adequate facilities and equipment and current research data.

The medication problems confronting racing can be resolved by the industry. It will require unparalleled cooperation by all segments of the industry and an infusion of financial support. Those individuals, groups and jurisdictions concerned with the future of racing must develop a program whereby the image of racing can be restored.

SPECIFIC PROPOSAL

The proposed NASRC Uniform Drug Testing and Quality Assurance Program is outlined in Table 1. A limited number of Research and Reference Centers, each serving several racing jurisdictions, are proposed.

Each RESEARCH AND REFERENCE CENTER will consist of a TESTING UNIT, a RESEARCH UNIT and a QUALITY ASSURANCE UNIT (QAU). The center will be administered in accordance with standard hierarchial management under the supervision of a Director. The Director will be responsible for the conduct and operation of the Center, for the coordination of research and testing with other Centers and for contract agreements with racing jurisdictions. The quality assurance unit will be headed by an Officer and function as outlined in the Federal Good Laboratory Practice Regulations. In addition, the QAU officers will coordinate quality control data and make reports to the appropriate officials.

Selection of the Research and Reference Centers is the key to development of the national plan. Because creation of a Research and Reference Center would be a multimillion dollar investment, existing programs, facilities and personnel must be utilized. Racing jurisdictions with fully equipped drug testing laboratories, experimental horses and dogs and research ability will be canvassed for their support in making these facilities available as Research and Reference Centers.

Quality assurance samples and appropriate research data will be provided on a full cost recovery basis. Capital expenditures will be absorbed by the Research and Reference Center. Each drug administration trial will consist of appropriate samples to describe the excretion of the drug and analytical methodology capable of detecting the drug and/or metabolites will be provided. The costs of these services are estimated to be approximately $1,000 per drug trial.

DRUG TESTING UNIT

The drug testing unit is of paramount importance to the research and reference center concept; its inclusion is a necessary condition for the creation of a program which is directly oriented towards the regulatory needs of the racing industry. Without a drug testing unit, research can lose its focal point and go off on tangents. The specifications for the drug testing unit are described in the previous section.

RESEARCH UNIT

Research data will be supplied by the Research and Reference Centers. Whenever applicable, data will be published in a scientific journal. All facilities, equipment and instrumentation outlined above in Specific Recommendations will be available at the Research and Reference Centers.

QUALITY ASSURANCE UNIT (QAU)

The Quality Assurance Unit will operate under the standard hierarchial management of the Research and Reference Center. However, completely separate quality control records will be maintained for comparison with data from other Quality Assurance Units and review by appropriate NASRC officials.

Selected drugs will be administered to animals according to known and/or race track doses and appropriate samples of blood and/or urine will be obtained.

Samples will be screened at the Research and Reference Center and the results documented. Adequate samples with accompanying documentation and analytical information will be sent to participating laboratories every two weeks. Confirmation of results will be obtained from a second Research and Reference Center.

Results obtained by participating laboratories will be returned to the QAU for evaluation. Critiques and recommendations for improvement will be sent to each participating laboratory. The QAU Officers will be responsible for the confidentiality of their reports.

DRUG ADMINISTRATION TRIALS

1. Standardbreds, Thoroughbreds and Quarterhorses will be used as experimental animals. Grade horses will not be used. Appropriate accommodations will be made for Greyhound racing. Test animals will be maintained so that they are representative of the racing animal.
2. Drugs selected for administration will be chosen from standard or classical drugs, new drugs and experimental drugs.
3. Urine samples will be collected by means of indwelling urethral catheters so that samples of known collection time and volume can be packaged and frozen for future use.

4. Blood samples will be collected in appropriate tubes and preserved for future analyses.

5. Blood and urine samples will be collected at appropriate times so that either clearance times and/or scope of analytical methods can be determined.

6. Whenever possible, pharmacological effects will be monitored.

7. Samples from drug administration trials will be sent to testing laboratories every two weeks.

8. Drug Administration Schedule. The following list is an example of the drugs to be used.

Trial	Drug	Dose	Samples (hours)
1.	flunixin	500mg I.V.	URINE: 0, 4, 8, 12, 24
2.	nalbuphine	12mg I.M.	URINE: 0, 2, 4, 6, 8
3.	butorphanol	12mg I.M.	URINE: 0, 2, 4, 6, 8
4.	phenylbutazone	4g oral	URINE: 0, 8, 16, 24, 36, 48 BLOOD: 0, 8, 16, 24, 36, 48
5.	lidocaine	40mg S.Q.	URINE: 0, 4, 8, 12
6.	acepromazine	10 mg I.V.	URINE: 0, 4, 8, 12, 24
7.	theophylline	200mg I.M.	URINE: 0, 4, 8, 12, 24
8.	zomepirac	100mg I.M.	URINE: 0, 4, 8, 12, 24
9.	nefopam	60mg oral	URINE: 0, 4, 8, 12
10.	trichloromethiazide	50mg I.V.	URINE: 0, 4, 8, 12
11.	hydromorphone	10mg I.M.	URINE: 0, 2, 4, 6
12.	fentanyl	0.1mg I.M.	URINE: 0, 2, 4, 6
13.	piroxicam	100mg I.V.	URINE: 0, 4, 8, 12

DRUG ANALYSES

1. Research and Reference Center Analyses

All samples of blood and urine will be analyzed by the Research and Reference Centers prior to shipment to testing laboratories. The purpose of these analyses is to certify the samples and document results expected of the analytical method. Blood and urine will be analyzed according to standardized drug testing methods including confirmation techniques such as gas chromatography, high performance liquid chromatography and mass spectrometry. Results of these analyses will be fully documented in a standard format by means of written narrative and photographs.

2. Testing Laboratory Analyses

Quality assurance samples will be analyzed by the participating laboratories as routine samples. Special handling and attention should not be given to these samples. For known drug trials, the laboratory is expected to duplicate the quality of results provided by the Research and Reference Center as outlined in examples shown in Tables 2, 3, 4 and 5. Unknown samples will be analyzed and the results evaluated by the Quality Assurance Officer.

3. Coordination and Evaluation of Test Results

In order to be effective, the results of a quality assurance program must be carefully evaluated so that constructive criticism can be offered whenever required. Accurate records must be maintained so that the analytical methods and the personnel can be evaluated from an unbiased point of view.

ORGANIZATIONAL STRUCTURE

The NASRC Uniform Drug Testing and Quality Assurance Program will function administratively under the NASRC as outlined below. Because there is no appropriate body or organization which has decisive authority and control, the program will operate in a cooperative rather than authoritative role. The Advisory Council, consisting of an NASRC Official and Directors of the Research and Reference Centers will coordinate the functioning of the program with the various racing jurisdiction laboratories.

Those racing jurisdictions which affiliate with a specific Research and Reference Center will do so by means of contractual agreement.

Table 1.

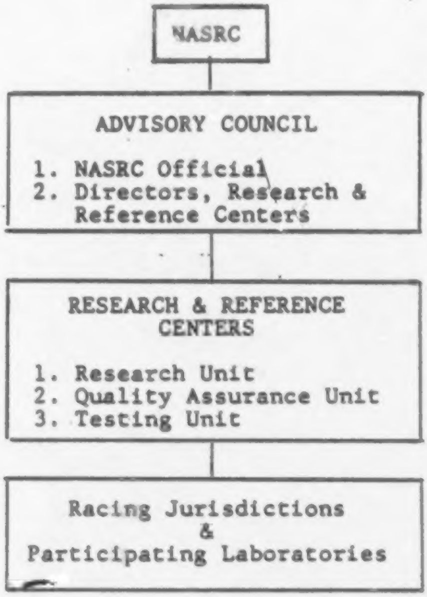

NASRC
ADVISORY COUNCIL
1. NASRC Official
2. Directors, Research & Reference Centers
RESEARCH & REFERENCE CENTERS
1. Research Unit
2. Quality Assurance Unit
3. Testing Unit
Racing Jurisdictions & Participating Laboratories

Table 2

NASRC UNIFROM DRUG TESTING AND QUALITY ASSURANCE PROGRAM

TO: (name of participating laboratories)

FROM: (name of Research and Reference Center)

DATE:

Transmitted herewith are the following samples and information for analyses as indicated:

EXPERIMENT	DRUG	DOSE	SAMPLES	METHOD
NASRC-1	meperidine	100mg I.V.	U-0,1,4,8	Base extraction
NASRC-2	unknown		one urine	standard screening

*Metabolite standard enclosed. Visualize TLC plates with Dragendorff sequence.

Remarks:

Report results by returning pictures of TLC plates run for each experiment and identified as instructed. Return UV and/or GC tracings when requested. Results are to be returned within one week after samples are received.

Table 3

NASRC UNIFROM DRUG TESTING AND QUALITY ASSURANCE PROGRAM

TO: (name of participating laboratory)

FROM: (name of Research and Reference Center)

DATE:

Informational data concerning foreign compounds and new drugs.

DESCRIPTION:

SAMPLE:

EXTRACTION:

CHARACTERIZATION:

TLC·

GC:

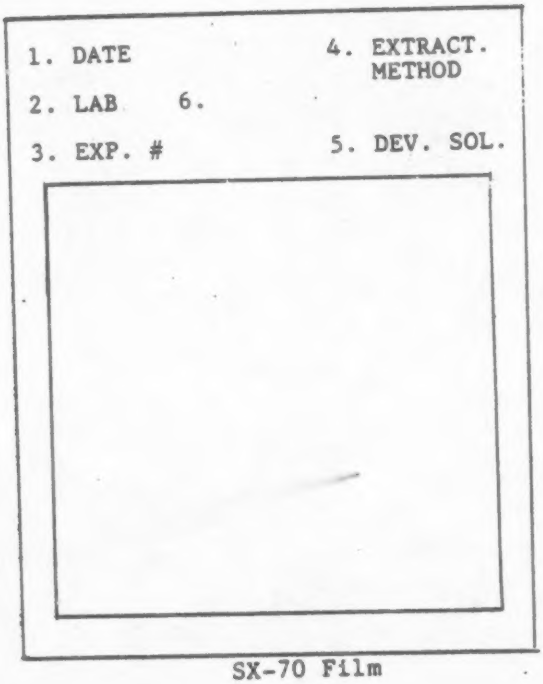
UV:

GC/MS:

HPLC:

Comments and Other Methods:

Table 4



SX-70 Film

For known drugs run experiments separately on 10 cm x 10 cm plates. For unkown drugs run with regular day's samples. Follow the format as indicated above for identification of the film. This information is essential.

1. Date run
2. Ba, Bu, M, R, S, Y, V, FL, NYRA, EDT AS appropriate
3. NASRC Experiment Number
4. Indicate:

Acid Plasma	(AP)
Base Plasma	(BP)
Acid Urine	(AU)
Base Urine	(BU)
Acid Hydrolysis	(AH)
ETc.	

5. Indicate 4/4/2, 19/1, Davidow's, T-1, 9/1, etc.
6. Use center to describe sequence for identifying drug - fluorescence (fl), quench (q), sprays (Drag, Mand, etc) heat

Table 5

DRUG: MEPERIDINE (Demerol, Pethidine)

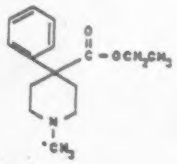
narcotic, analgesic.

Structure	Name	
1	Meperidine	base extractable - minor
2	Meperidine N-oxide	base extractable - major
3	parahydroxymeperidine	hydrolysis-base - major
4	normeperidine	base extractable - minor

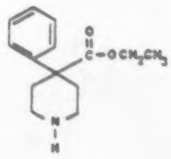
Compound	T-1	Davidow	9:1	19:1	4:4:2	PropAcid	8:1:1
Meperidine	.62	.66	.14	.06	.06	.72	.08
Meperidine N→O	.40	.04	.02	.00	.06	.80	.14
para OH merperidine	.60	.52	.06	.00	.02	.54	.06
normeperidine	.28	.26	.04	.02	.14	.72	.12

Structures:

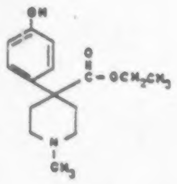
1.



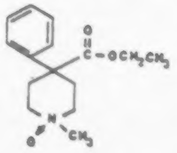
4.



3.



2.



Comments:

1. May be detected if large doses are administered.
2. Major metabolite, base extractable.
3. Major metabolite, hydrolysis, base extractable.
4. Minor metabolite, base extractable.

```
SCAN PROGRAM  [Rev 11/05/79]

>> CURRENT GC CONDITIONS: Oven=170.5 Inj. Port =286.0 Retention time=   0.0

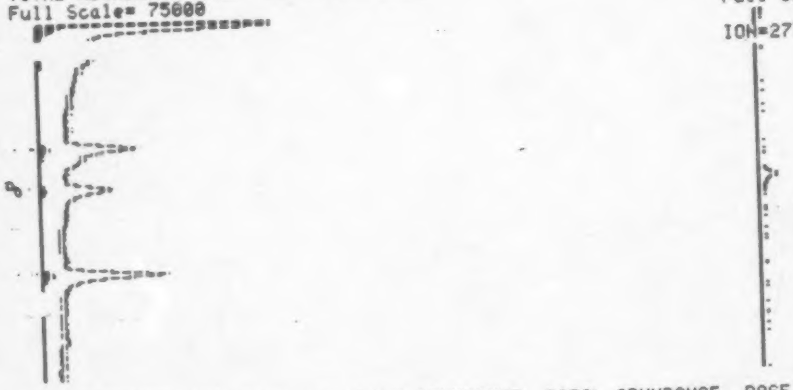
** GC CONDITIONS FOR RUN    277  Date: 8/12/1980      9:38 AM  Tuesday
XFER LINE  SOURCE   ANALYZER   CURRENT TEMPERATURES (deg.)
   280       140     100

   Procedure   2  **
*****************************************************************************
FLOW RATE =     25.0 ml./min.
 TEMP1  TIME1    RATE   TEMP2  TIME2    INJ.PORT  MAX.OVEN  SOLVENT  RUN TIME
  Deg.   min.  Deg/min.  Deg.   Min.      Deg.      Deg.      min.      min.
  170    1.5    15.0     200    2.0       280       280       0.8       5.5

AUTOTUNE FILE 0 dated  8/12/1980        DFTPP NORMALIZED
OPTICS TUNED AT MASS 502
MS PEAK DETECT THRESHOLD =    20.0 linear counts
SAMPLES PER .1 AMU =              4   SCAN SPEED = 380 amu/sec
ELECTRON MULTIPLIER =        2200 VOLTS
GC PEAK DETECT THRESHOLD =  2000   TRIGGERED ON TOTAL AB NDANCE
BETWEEN SCAN DELAY =           0.000 seconds when savin  all spectra.
ONLY STRIPPED SPECTRA RECORDED IN PEAKFINDER MODE.
BEGIN RUN IN PEAKFINDER MODE.

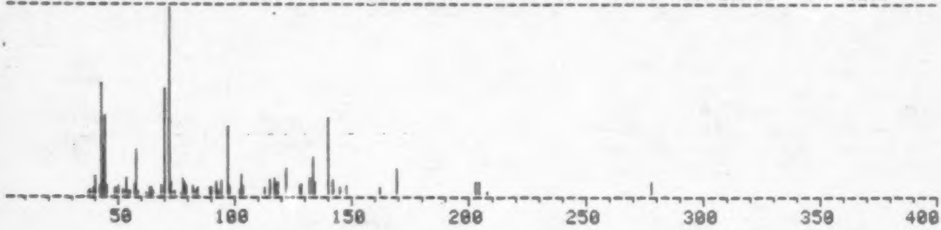
L st spectrum recorded on Disk ID #   1 =      6, total remaining =  59.
N xt spectrum recorded on Disk ID #   1 =       7.
SAMPLE IDENTIFICATION_Demerol (Meperidine) P-OH std. ______+TMAH____

TOTAL ABUNDANCE FROM  35 TO 400 amu                          ION 263.0
Full Scale= 75000                                            Full Scale=   300
```



```
DISC SPECTRUM  RET.TIME  RELATIVE ABUNDANCE  TOTAL ABUNDANCE  BASE PEAK
  1      7       2.14          67.7%              4273          74.05
  1      8       2.60          51.0%              3219          71.15
  1      9       3.58         100.0%              6309          74.05
```

```
*** GC  SAMPLE #   277  dated: 8/12/1980        9:38 AM  Tuesday
** Spectrum     8, Disk ID    1  **  Sample #     277   Retention Time 2.60 min
Scanned from  35 to 400 amu  Number of Peaks Detected =    74
File type = processed
Base Peak =   71.2 ' Base Peak Abundance =      449  Total Abundance =     3219
```



```
Lower Abundance Cutoff Level =   1.5%

  MASS    ABUNDANCE (%)          MASS    ABUNDANCE (%)          MASS    ABUNDANCE (%)

  36.2         2.2               70.2       55.9                114.9        8.0
  37.5         3.1               71.2      100.0                116.1        8.9
  39.0         3.8               72.2        6.9                117.2        6.0
  40.1         9.6               74.1        2.4                118.1        7.3
  41.3         4.9               77.2        9.4                121.1       14.5
  42.2        50.6               78.2        7.3                127.1        5.1
  43.2        26.1               79.2        5.3                128.3        6.0
  44.2        41.6               81.5        4.7                131.2        8.9
  45.2         4.7               83.3        2.9                133.2       20.5
  48.4         3.8               84.2        4.5                134.3        6.9
  50.3         5.1               89.2        4.2                140.2       40.8
  51.1         3.1               90.0        3.8                141.1        8.0
  53.3         8.7               91.1        7.3                145.3        4.2
  54.2         1.8               92.0        3.3                147.1        5.1
  55.1         1.8               94.6        7.6                160.9        4.0
  56.1         6.0               96.2       36.3                161.3        4.2
  57.1        23.8               97.2        5.3                169.1       14.0
  58.2         2.4              100.8        3.3                202.2        7.3
  63.0         4.0              102.0       10.7                204.2        7.1
  64.3         4.2              103.1        5.1                207.1        1.8
  65.1         1.6              112.3        4.5                277.3        6.7
  67.9         4.7
```

```
SCAN PROGRAM  [Rev 11/05/79]

>> CURRENT GC CONDITIONS: Oven=150.4 Inj. Port =274.0 Retention time=   0.0

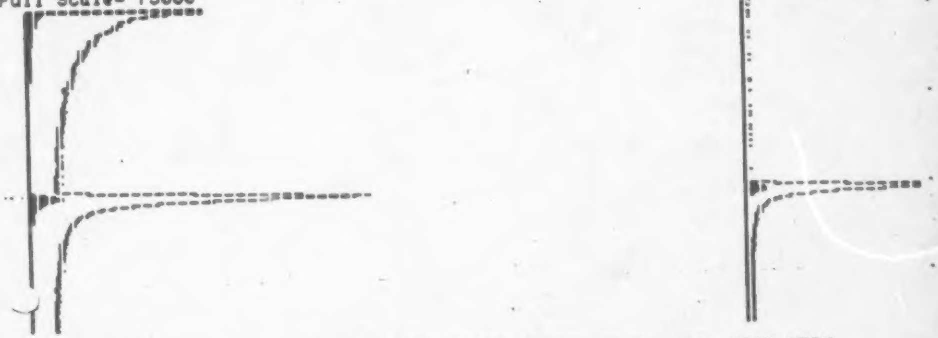
** GC CONDITIONS FOR RUN    263  Date: 8/11/1980     4:05 PM  Monday
XFER LINE  SOURCE   ANALYZER   CURRENT TEMPERATURES (deg.)
  270        140      180

  Procedure   2  **
*******************************************************************************
FLOW RATE =     25.0 ml./min.
 TEMP1  TIME1    RATE   TEMP2  TIME2    INJ.PORT  MAX.OVEN  SOLVENT  RUN TIME
  Deg.   min.  Deg/min.  Deg.   Min.      Deg.      Deg.      min.      min.
  170    1.5    15.0     200     2.0      280       280       0.0        5.5

AUTOTUNE FILE 0 dated  8/11/1980        DFTPP NORMALIZED
OPTICS TUNED AT MASS 502
MS PEAK DETECT THRESHOLD =    20.0 linear counts
SAMPLES PER .1 AMU =             4   SCAN SPEED = 300 amu/sec
ELECTRON MULTIPLIER =        2200 VOLTS
GC PEAK DETECT THRESHOLD =  2000   TRIGGERED ON TOTAL ABUNDANCE
BETWEEN SCAN DELAY =            0.000 seconds when saving all spectra.
ONLY STRIPPED SPECTRA RECORDED IN PEAKFINDER MODE.
BEGIN RUN IN PEAKFINDER MODE.

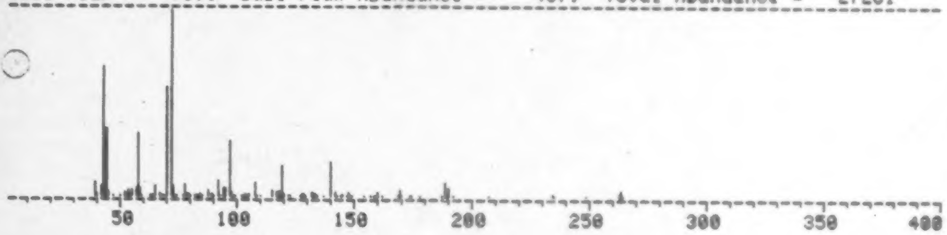
Last spectrum recorded on Disk ID #   1 =    31, total remaining =  34.
  xt spectrum recorded on Disk ID #   1 =     32.
SAMPLE IDENTIFICATION_____Para-hydroxy Meperidine std._____neat_____

TOTAL ABUNDANCE FROM  35 TO 400 amu                          ION 263.0
Full Scale= 75000                                            Full Scale=   300
```



```
DISC SPECTRUM  RET.TIME  RELATIVE ABUNDANCE  TOTAL ABUNDANCE  BASE PEAK
  1      32      3.04          100.0%              27261          71.05
```

```
*** GC  SAMPLE #   263  dated: 8/11/1980        4:05 PM  Monday
** Spectrum    32, Disk ID    1  **  Sample #    263   Retention Time 3.04 min
Scanned from  35 to 400 amu  Number of Peaks Detected =  122
File type = processed
Base Peak =   71.1  Base Peak Abundance =    4379  Total Abundance =   27261
```



```
Lower Abundance Cutoff Level =   1.0%

 MASS    ABUNDANCE (%)        MASS   ABUNDANCE (%)        MASS   ABUNDANCE (%)

 39.0        8.4              78.0       2.4             118.0       3.0
 40.0        1.7              79.1       2.2             119.0      16.6
 41.1        6.1              79.8       1.3             120.1       2.5
 42.0       69.2              81.0       1.3             127.1       1.6
 43.1       35.6              82.0       1.5             128.1       1.8
 44.0       36.1              83.0       1.1             129.2       1.2
 44.9        3.1              84.2       1.7             131.1       3.4
 49.9        1.1              87.6       4.4             132.1       2.2
 50.9        3.3              89.0       2.1             133.0       2.4
 52.9        4.1              90.0       1.3             140.1      18.8
 54.0        1.0              91.1       9.5             141.0       2.6
 54.9        4.5              92.1       1.1             145.0       1.8
 56.0        5.3              94.2       4.9             146.2       1.3
 57.0       34.3              95.1       4.9             147.1       3.1
 58.0        5.4              96.1      29.7             160.1       2.6
 63.0        1.4              97.1       2.5             169.0       3.8
 64.0        1.0             103.0       2.3             174.1       1.4
 65.0        6.4             105.0       1.7             188.1       7.7
 66.0        1.8             106.9       8.4             189.2       2.2
 68.1        1.3             108.0       1.2             190.2       5.3
 70.1       58.0             115.0       3.8             234.1       2.1
 71.1      100.0             116.0       3.4             262.1       1.7
 72.0        5.8             117.1       2.5             263.1       4.0
 77.0        6.5
```

```
SCAN PROGRAM  [Rev 11/05/79]

>> CURRENT GC CONDITIONS: Oven=186.0 Inj. Port =278.0 Retention time=   0.0

** GC CONDITIONS FOR RUN    247  Date: 8/12/1980      9:53 AM  Tuesday
XFER LINE  SOURCE   ANALYZER   CURRENT TEMPERATURES (deg.)
  280       140      180

   Procedure   2  **
****************************************************************************************
FLOW RATE =     25.0 ml./min.
 TEMP1  TIME1     RATE   TEMP2  TIME2    INJ.PORT   MAX.OVEN   SOLVENT   RUN TIME
  Deg.   min.  Deg/min.  Deg.    Min.      Deg.       Deg.       min.       min.
  170    1.5    15.0     200     2.0       280        280        0.8        5.5

AUTOTUNE FILE 0 dated  8/12/1980          DFTPP NORMALIZED
OPTICS TUNED AT MASS 502
MS PEAK DETECT THRESHOLD =     20.0 linear counts
SAMPLES PER .1 AMU =              4    SCAN SPEED = 380 amu/sec
ELECTRON MULTIPLIER =          2000 VOLTS
GC PEAK DETECT THRESHOLD =  2000    TRIGGERED ON TOTAL ABUNDANCE
BETWEEN SCAN DELAY =              0.000 seconds when saving all spectra.
ONLY STRIPPED SPECTRA RECORDED IN PEAKFINDER MODE.
BEGIN RUN IN PEAKFINDER MODE.

Last spectrum recorded on Disk ID #   1 =    10, total remaining =  55.
Next spectrum recorded on Disk ID #   1 =     10.
SAMPLE IDENTIFICATION___Meperidine___std____________________neat_______

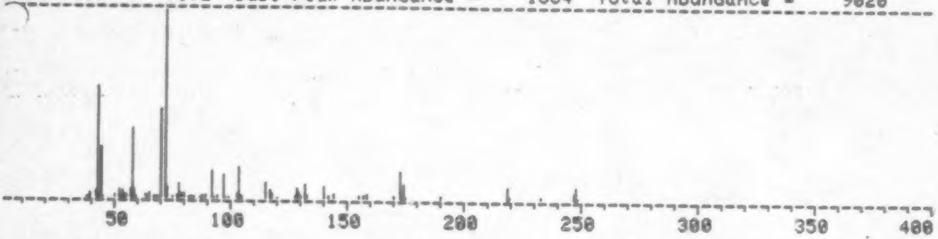
TOTAL ABUNDANCE FROM  35 TO 400 amu                              ION 247.0
Full Scale= 75000                                                Full Scale=   300
```

```
RUN TIME EXPIRED

DISC SPECTRUM  RET.TIME  RELATIVE ABUNDANCE  TOTAL ABUNDANCE  BASE PEAK
  1     10       1.10         100.0%              9020           71.15
```

```
SPECTRA PLOT/TAB PROGRAM, [Rev 11/30/79]

*** GC  SAMPLE #   247  dated: 8/12/1980        9:53 AM  Tuesday
** Spectrum    10, Disk ID    1  **  Sample #    247   Retention Time 1.10 min
Scanned from  35 to 400 amu  Number of Peaks Detected =   77
File type = processed
Base Peak =   71.2  Base Peak Abundance =    1664  Total Abundance =    9020
```



```
Lower Abundance Cutoff Level =   1.0%

  MASS    ABUNDANCE (%)        MASS   ABUNDANCE (%)        MASS   ABUNDANCE (%)

  39.1        3.4              77.1       8.1              129.2       4.3
  41.2        4.3              78.2       2.9              130.4       1.9
  42.2       59.0              79.8       2.9              131.2       8.5
  43.2       26.3              81.2       1.1              132.2       2.0
  44.2       26.9              82.3       1.4              140.2       6.6
  50.2        1.7              84.4       1.0              141.1       1.6
  51.1        4.9              87.1       1.6              144.1       2.7
  52.1        1.4              89.2       1.6              155.1       1.5
  53.2        4.3              91.2      15.0              156.2       1.5
  54.1        1.9              92.2       1.1              158.2       2.9
  55.1        2.0              94.2       1.6              170.2       1.5
  56.2        4.9              96.2      12.5              172.2      15.3
  57.1       36.9             102.2       2.8              173.2       4.0
  58.1        4.6             103.2      17.3              174.2       8.0
  63.1        1.7             104.1       2.0              175.1       1.4
  65.1        2.6             105.2       1.1              190.2       1.8
  68.0        1.1             115.1       9.3              218.2       7.4
  70.2       47.0             116.1       4.9              219.3       1.6
  71.2      100.0             117.2       3.1              232.2       2.0
  72.2        5.5             120.2       1.1              246.3       4.3
  75.2        1.1             127.2       2.2              247.3       7.4
  76.2        1.5             128.2       5.8              248.3       1.3
```

```
SCAN PROGRAM [Rev 11/05/79]
>> CURRENT GC CONDITIONS: Oven=170.1 Inj. Port =282.0 Retention time=   0.0

** GC CONDITIONS FOR RUN    263  Date: 8/12/1980     9:26 AM  Tuesday
XFER LINE  SOURCE   ANALYZER   CURRENT TEMPERATURES (deg.)
 ) 200       140      180

   Procedure   2  **
*******************************************************************************
FLOW RATE =     25.0 ml./min.
 TEMP1  TIME1     RATE   TEMP2  TIME2    INJ.PORT   MAX.OVEN   SOLVENT   RUN TIME
  Deg.   min.  Deg/min.  Deg.    Min.      Deg.       Deg.       min.       min.
  170    1.5     15.0    200     2.0       280        280        0.8         5.5

AUTOTUNE FILE 0 dated  8/12/1980        DFTPP NORMALIZED
OPTICS TUNED AT MASS 502
MS PEAK DETECT THRESHOLD =    20.0 linear counts
SAMPLES PER .1 AMU =            4   SCAN SPEED = 380 amu/sec
ELECTRON MULTIPLIER =        2200 VOLTS
GC PEAK DETECT THRESHOLD =  2000    TRIGGERED ON TOTAL ABUNDANCE
BETWEEN SCAN DELAY =             0.000 seconds when saving all spectra.
ONLY STRIPPED SPECTRA RECORDED IN PEAKFINDER MODE.
BEGIN RUN IN PEAKFINDER MODE.

Last spectrum recorded on Disk ID #   1 =    32, total remaining =  33.
  xt spectrum recorded on Disk ID #   1 =      6.
SAMPLE IDENTIFICATION__Demerol (Meperidine) N2O std_________neat_____
                                                         ION 263.0
TOTAL ABUNDANCE FROM  35 TO 400 amu                      Full Scale=   300
Full Scale= 75000
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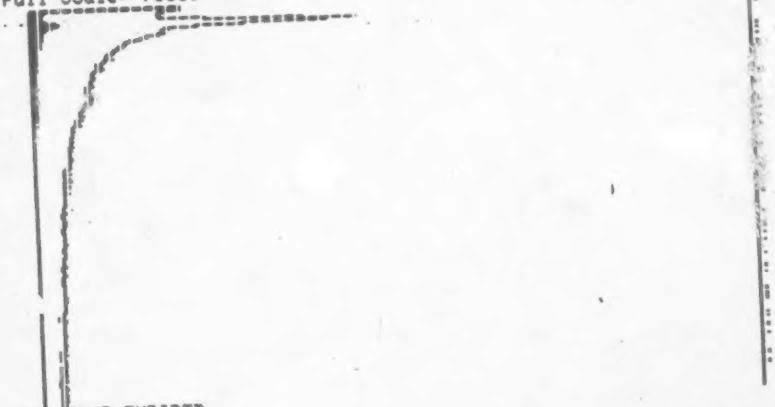

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RUN TIME EXPIRED

DISC SPECTRUM  RET.TIME  RELATIVE ABUNDANCE  TOTAL ABUNDANCE  BASE PEAK
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SPECTRA PLOT/TAB PROGRAM, [Rev 11/30/79]

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-------------------------------------------------------------------------------
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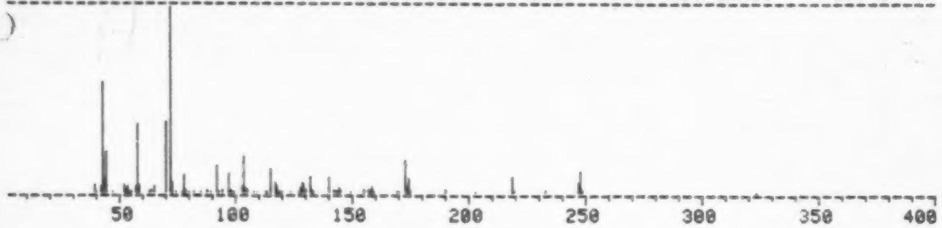

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Lower Abundance Cutoff Level =   1.5%

  MASS    ABUNDANCE (%)         MASS     ABUNDANCE (%)         MASS    ABUNDANCE (%)

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  41.3          3.6       [illegible]         2.5             144.1         2.6
  42.1         58.8       [illegible]        11.1             145.3         1.6
  43.2          6.9             97.1          1.6             155.2         2.0
  44.2         22.2            102.2          3.9             156.1         1.6
  51.1          4.9            103.1         20.4             157.1         1.5
  52.1          1.5            104.1          2.8             158.1         3.9
  53.1          3.9            105.1          1.9             172.2        17.9
  56.2          4.3            115.1         13.1             173.2         4.3
  57.1         37.5            116.1          6.2             174.2         8.1
  58.0          4.6            117.1          4.0             175.1         2.1
  63.1          1.6            127.2          2.7             190.3         2.1
  65.0          3.6            128.2          5.7             218.2         9.3
  70.2         38.0            129.2          5.5             219.1         2.0
  71.1        100.0            130.2          2.2             232.3         2.5
  72.2          5.7            131.2          9.1             246.3         6.1
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  78.2          2.4            140.2          8.7             248.3         2.0
  86.9          1.6
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Senator **Mathias**. Our next panel will be Mr. August Belmont, chairman of the Jockey Club; Mr. William B. Hopkins, president, Harness Tracks of America; and Mr. Lynn Stone, president of the Thoroughbred Racing Association; and Mrs. Penny Ringquist, president, Thoroughbred Owners and Breeders Association.

STATEMENTS OF AUGUST BELMONT IV, CHAIRMAN, THE JOCKEY CLUB; WILLIAM B. HOPKINS, PRESIDENT, HARNESS TRACKS OF AMERICA; LYNN STONE, PRESIDENT, THOROUGHBRED RACING ASSOCIATION; AND PENNY RINGQUIST, PRESIDENT, THOROUGHBRED OWNERS AND BREEDERS ASSOCIATION

Senator **Mathias**. Since Mr. Belmont is one of those fortunate human beings, that rare and privileged breed, to live on the Eastern Shore of Maryland, I am going to call on him first.

Mr. **Belmont**. Thank you, Mr. Chairman.

For the record, my name is August Belmont, and I am here in my capacity as chairman of the Jockey Club. Although the Jockey Club had regulatory functions in the past for the last 25 years, it has had no day-to-day responsibilities. It continues to be responsible for maintaining the integrity of the breeding lines through its functions.

The Jockey Club is already on record as supporting the elimination of the use of substances that could affect the performance of horses competing in racing. As has already been brought out, the National Association of State Racing Commissioners has developed a set of guidelines which outline demonstrably dangerous drugs and known stimulants and depressants. These guidelines are not perfect.

Drug testing, similarly, the uniform drug testing and quality assurance program of NASRC, which the Jockey Club helped finance, is a step in the right direction. It must be recognized that the NASRC program has been developed under the existing regulatory climate.

We all agree that, without competent laboratories, any statutory prohibitions only invite contempt. The pace of implementation of the NASRC medication guidelines has been slow. Only a few States are actively participating in the uniform drug testing or the quality assurance program. We can't expect, however, to undo in 2 years the effects of policies and economic circumstances that have evolved over the last two decades of government. However, we think the number of States who have adopted the program is encouraging, given the legislative realities of time.

I am in complete agreement with the premise that the future of racing in our country is dependent on its ability to maintain an image of integrity. This can only be done if each horse in every race is out there to win by the use of its natural abilities, and not affected adversely by drugs or other tampering. The future will also depend on the average owner having a fair chance to break even by racing his horses. The problem is how to balance these two basic factors.

In considering the advisability of attacking the problem by Federal legislation, it must be recognized that in 1980, for instance, $6.7 billion were wagered at thoroughbred tracks, generating $445 million to State and local governments, while at the same time 36,000 foals yielded a cash crop, based on prices received at public auction, of $1,260 million, or $35,000 apiece on average. Revenues to State and local governments, and investments in farms and breeding stocks and the thousands of persons employed all depend on a healthy and stable environment for racing.

Over the past two decades, the State governments, in quest for more revenue, have increased dramatically the number of racing days. The costs to owner is not cut down, and it has made it increasingly difficult for the average owners to make ends meet. The average earnings from purses received by thoroughbreds that actually raced in 1980 was $6,970. By custom, a percentage of this ranging up to 20 percent goes out in commissions, so that the basic amount that goes home is less than that $6,000.

The basic cost of maintaining a horse during the same period is difficult to pin down, because it varies with different locations and circumstances. However, anyone who has paid the bills incident to training and racing a horse knows the cost is more than that. It has been estimated at between $12,000 and $18,000 a year.

In closing, I should point out that the industry has made progress in the area of medication control in spite of the difficulties I have mentioned. I would urge that the industry be accorded more time to get its house in order, using the machinery already in existence, and that the added financial burden which the proposed legislation would place on the industry be avoided or at least postponed.

Thank you.

Senator MATHIAS. Thank you, Mr. Belmont.

Mr. Hopkins?

Mr. HOPKINS. Thank you, Senator. My name is William B. Hopkins, president of the Harness Tracks of America. The Harness Tracks of America is an association comprised of harness track owners and operators located throughout North America. Our membership includes virtually every harness racing association conducting parimutuel wagering in this country. Wagering on harness racing exists in 17 States. The 23 million attendees wager over $2.3 billion through ontrack and legal offtrack wagering systems. States and local governments derive revenues of approximately $200 million annually. The harnessracing industry also has substantial investments in horses, racing plants, farmland, and, in addition, provides job opportunities for tens of thousands of people.

The racing industry has long been opposed to the use of any drug which would affect the natural ability of the horse and the outcome of a race. Members of the Harness Tracks of America, as operators of parimutuel establishments, are well aware that public confidence in the honesty and integrity of racing is paramount if we are to succeed in our business. It is a matter of indifference to the track operator as to how the horses finish in a race. What matters to us is that the fan believes he is getting a fair shake when he wagers. This is the only way we can maximize our attendance and revenue.

The most recent controversy is about the use of therapeutic agents in horses. The questions concerning the use of these agents are complex and technical. Track operators have looked for guidance to the regulators of our sport, the National Association of State Racing Commissioners; and the NASRC has, through the work of the leading veterinarians and chemists, developed medication guidelines designed to protect the horse, the industry and the public, by prohibition or control of drugs and substances foreign to the horse. The membership of the Harness Tracks of America unanimously supported the NASRC guidelines at the annual meeting in 1981.

We reaffirmed our support, again, unanimously at our annual meeting in 1982. There can be no doubt whatsoever as to our position. We are in favor of the adoption of the NASRC guidelines as the minimum, acceptable standards.

HTA is opposed to the legislation in S. 1043. While we are in complete support of the NASRC guidelines, the passage of Federal legislation would add another layer of bureaucracy to industry already laced with State regulation, and it would add to the cost of supporting these regulators. We are concerned about the well-being of the horse. It is the foundation of our industry. We also believe that the adoption of the NASRC guidelines by all State jurisdictions is far more preferable to the enactment of Federal legislation.

Admittedly, progress has neither been as rapid nor complete as we would like. Those changes must be made State by State, which is time consuming in itself. The racing industry is comprised of thousands of small, independent businessmen. By its very nature, change does not happen quickly. I believe the adoption of these guidelines must happen and that it will happen.

I would respectfully request that the committee, and you, Mr. Chairman, note the progress that has been made and allow the industry time to accomplish its task. Thank you very much.

Senator MATHIAS. Thank you.

Mr. Stone?

Mr. STONE. Thank you, Senator. I am Lynn Stone, president of Churchill Downs, Inc., a racetrack that is home of the Kentucky Derby. I am also president of the Thoroughbred Racing Associations, a trade association representing 54 racetracks throughout the United States and Canada.

On January 21, 1981, at its annual membership meeting, the Thoroughbred Racing Associations passed the following resolution:

During the past 2 years, the need for all segments of racing to resolve the medication issue has been increasingly apparent. Failure to confront this issue directly and responsibly could lead to a loss of public confidence in the sport and the intervention of the Federal Government in an area better regulated by State racing commissions in cooperation with the industry.

Even before the introduction of a Federal drug bill in the U.S. Congress, the National Association of State Racing Commissions adopted national guidelines to create a workable and uniform system of medication rules. And at the time of this resolution, approximately 75 percent of the active parimutuel racing States have moved to adopt rules similar to, or stricter than, the NASRC guidelines.

The TRA has always fully supported the prohibition of illegal drugs in racing and has worked closely through its security arm, the Thoroughbred Racing Protective Bureau, to assist State and

Federal law enforcement authorities in protecting the integrity of racing.

In view of our long-term commitment to the quality and integrity of thoroughbred racing, the TRA hereby declares its unqualified support for the efforts of the NASRC to provide national medication guidelines and urges State commissions in all racing jurisdictions to adopt and strictly enforce uniform rules with strong penalties for violators.

Furthermore, the TRA reaffirms its opposition to the use of any prohibited substance to affect the outcome of a race; to the abuse of any permitted therapeutic medication which might cause a loss of public confidence; and to the intervention of the Federal Government into areas presently controlled by the States. That is the end of the resolution.

The industry has made progress in moving forward a united position on the medication issue. It is true that progress has been slow. However, technical, legal and legislative problems have all contributed to these delays.

Racetracks throughout the United States are having ever-increasing difficulties in showing a profit or breaking even financially. It has been estimated that enforcement of this bill would cost between $5 and $50 million. Our racetracks cannot afford to absorb this cost as has been suggested in this bill, and I urge you to give serious consideration to this possibility.

A loss of one or more racetracks will mean a substantial loss of revenue to State governments and a loss of jobs in the industry.

I would hope that we would all agree that this is not the way to improve the financial health of a struggling thoroughbred industry.

Senator **Mathias**. Thank you very much, Mr. Stone.

Mrs. Ringquist?

Mrs. **Ringquist**. Thank you. I am Penny Ringquist, president of the Thoroughbred Owners and Breeders Association.

I am for the purposes of this bill. And I am totally in keeping with breeders all over America, those people on the farms of America, who are trying to breed good horses, they are for it. What I want to do is breed a sound, strong, fast horse that would run on his own courage.

The cost of regulating racing in the proper manner for the good of racing, for the good of the horses and for the good of the public traditionally, historically, has been within the province of the States. This is not the time, nor the national mood, for the Federal Government to take over the State area of regulation.

That the States, that all States, have not done what you would like at the present is within the framework of Thomas Jefferson and Alexander Hamilton, who were absolutely opposed to this proposition. Within the framework of their compromise is that reasonable men could differ on a social system of conduct. They still do.

It was better then, to have reasonable men in each of the 13 to 15 States, as it may be now, make those decisions as may affect the people within those States, who are much more alike today than they were in 1789.

It is different in Arizona than it is in New York; it is different in Colorado than it is in Dade County; it is different in Los Angeles.

And reasonable men can arrive at different propositions, men who have addressed this problem which is delicate and intrinsic to the health, safety, and welfare of their people and that they feel with their own expertise in this area that they are making the right decision. We have as of this minute done this. I think it would be better for the States to finance and regulate and resolve this issue.

Although I am opposed to the way a few States at present are doing it, I applaud those States which already have done what this bill has suggested. And I'm speaking now of those States which, on their own, have already, prior to this hearing, done this.

States like Arizona, Florida, Illinois, Maryland (harness), New Mexico, Ohio, which have changed their rules in recent months, and Arkansas, Delaware (harness), Idaho, Maine, Montana, New York, Pennsylvania (harness), South Dakota, and Washington which have reaffirmed their commitment to medication-free racing, as envisioned by this legislation.

Yes, I am for this and I feel we are moving, and can move further, toward this goal.

What I am for—what every thoroughbred breeder in America is striving to do since Bull Rock was imported in 1730—is to breed sound horses that can race on courage. And I believe this is the intent of this bill, and I don't believe that it is in opposition to what has been legislatively proposed. What I am worried about is the implementation of it; this is not the time to transfer 1 dime or allocate 1 nickle from our national defense budget to regulate something that the States have regulated since 1743 at Annapolis when thoroughbred racing started.

I don't feel that it is appropriate to raise Federal taxes or to divert from our present budgetary allocation from social security to regulate, by this legislative proposal, an area which has been traditionally regulated with the cost borne by each individual State whose people decided thoroughbred racing was compatible with their style and mores.

Senator **Mathias**. Mrs. Ringquist, you get high marks as a diplomat. You aroused all my chauvinistic instincts by talking about the first thoroughbred in Virginia, which is a subject, of course, between Senator Warner and myself from time to time, and then you pacified me by stating that thoroughbred racing began in Maryland.

So I think I am going to look around for a post of ambassador, to which you should be promptly nominated and appointed.

But Senator Prior, I think, has some questions and I will defer to him first.

Senator **Prior**. Mr. Chairman, I was not planning to ask questions this morning, but I did hear a few statements that I thought perhaps we might clarify.

Mr. Hopkins, I had to leave the room a moment but I think you are supporting the NASRC guidelines?

Mr. **Hopkins**. That is correct.

Senator **Pryor**. How many States have endorsed these guidelines?

Mr. **Hopkins**. I don't know that, sir.

Senator **Pryor**. Very few, isn't it?

Mr. **Hopkins**. I don't know that.

Senator PRYOR. Probably less than five States; would that be the proper number?

Mr. HOPKINS. I don't know the proper number.

Senator PRYOR. I assume from your statement that you do want strong regulations relative to the drugging of horses, is this correct?

Mr. HOPKINS. There is no question about that.

Senator PRYOR. Now, which is stronger: a guideline of a State racing commission, or a Federal statute?

Mr. HOPKINS. I would think that would depend on the guideline of a State racing commission, as opposed to the proposed Federal legislation. My understanding is that the guidelines set down by the NASRC and the proposed federal regulation are not substantially different.

Senator PRYOR. Do you see anything inherently wrong with a program which, if enacted by the Congress, would give the States, say, a 2-year period to come in compliance with the Federal statute?

Mr. HOPKINS. The proposed legislation, as I read it, Senator, provides for an exemption or something, and it is not clear to me what that exemption may or may not be based upon. I would think if it were more definitive—I am not a lawyer, I am a layman, sir—and I would like to see more definitively outlined in the legislation and what the outlines are from the Federal Government.

Senator PRYOR. The legislation would give that authority to the Drug Enforcement Administration under the Department of Justice.

I also perceive, Mr. Chairman, a general consensus among the panel of very distinguished witnesses this morning, on the need for more time. How much more time? I would ask that of any of the panelists.

Mr. STONE. Senator, I will try to answer it from the TRA standpoint. As I mentioned in my statement, back in January 1981, we were urging the States to adopt guidelines; and, about that time, about 75 percent of the States racing did adopt those guidelines.

Throughout the various segments of the industry, basically, the two groups most involved, the horsemen who are regulated and the racing commissions who do the regulating, were striving to reach some common ground to bring the matter under control. Those efforts were slow; and, since that time, both organizations have adopted positions on medication.

The NASRC has changed their position several times. The horsemen's group has changed their policy toward medication of horses on several occasions, and they have been brought closer together.

The only thing I can say to you is that the most recent efforts have been started in the last few months after a national meeting of the ASBPA board of directors in Phoenix where it seemed like someone should try to help bring these two groups closer together, because we do need national unity; and that effort was started by the Thoroughbred Racing Association, who are a regulated part of this industry, and through the NASRC, and some progress has been made; meetings have been held, and other meetings are scheduled. I cannot give you a timetable as to how much time is needed. I only assure you that I wish it had happened 2 years ago, but we are active in our trade association, trying to push that forward at a rapid pace.

Senator PRYOR. Information provided to me, and I believe the information is correct, shows that today zero States are in complete compliance with the guidelines.

Mr. STONE. I have heard various testimony about that. I am not in a position to answer that question, but I did hear that testimony offered today.

Senator PRYOR. I would like to conclude my questions by making a comment about the statements on national unity. I would like to say that this legislation is an attempt to bring about national unity and uniformity in dealing with this complex problem. We now have constantly changing memberships on State racing commissions and medication rules varying from State to State. My legislation would establish uniform minimum standards by which all States would equally abide.

Mrs. RINGQUIST. Could I speak to your earlier question?

Senator PRYOR. Yes.

Mrs. RINGQUIST. As of February 1982, 15 State racing commissions had instituted or reaffirmed existing regulations conforming to the NASRC guidelines. In seven other commissions, the only race-day medication permitted was Lasix, and in seven other States rulemaking is possible or expected in the first half of 1982.

Senator PRYOR. I would like to add the qualification that my information indicates that no States are in full compliance with the NASRC guidelines when you also include participation in the associated NASRC uniform drug testing and quality assurance program.

Mr. Chairman, those are all the questions I have. Thank you very much.

Senator MATHIAS. Thank you, Senator Pryor.

Let me ask the panel at large, to comment on Dr. Maylin's testimony, that while the enactment of legislation of this sort or in the alternative, Mrs. Ringquist, the adoption of this kind of enforcement program by the States, would have an initial effect in lowering the number of horses available, or that the number would recover within a reasonably short period of time. How do you all feel about that?

Mr. BELMONT. Senator, my feeling is that there are in the States that—like New York and Maryland, where these types of controls have been on for a long time—we think there would be a real distortion when this went on. I think it would be an initial shock. I think a lot of these smaller tracks and smaller owners have relied on a certain amount of leeway, and horses will come to those tracks that can't operate in New York. because they have some arthritic condition or something, and this would eliminate a good part of those that are already eliminated from some of the major tracks in some of the major States.

This I think, could then, hurt very badly some of the tracks themselves, and you might find a really substantial reduction in tracks and a substantial reduction in horses racing.

Now, I agree over a period of time, assuming you can reconstitute tracks and build new ones, that this would come back, and that that distortion is not necessarily a permanent one. I do think you would have an economic distortion and the result of lesser horses, as well as economic distortions by the addition of expense for this regulation on top of the existing machinery that already is there. It is hard to imagine that the existing machinery would disappear because of the existence of this legislation.

Senator MATHIAS. Well, as I look around the room, I see some of my friends from Maryland who have made similar representations to me about the effects of a too-rapid imposition of enforcement techniques. Their views are similar to yours.

Is this, in part, what you were referring to, Mr. Stone, by talking about the economic hardship that could be imposed?

Mr. STONE. Senator, I spent the last 21 years in Kentucky. I am not a horseman. I am basically a businessman. Up until the early 1970's, a great number of States did not permit any race-day medication. They did shortly after the early 1970's because the horsemen's groups around the United States lobbied racing commissions in various States for use of medication on race days and convinced them that this was fair to the horse and fair to the wagering public. That situation has continued ever since.

The problems we are running into now, as far as the changing of medication rules in the States, is because of differences of opinion between the horses' groups and the regulatory bodies.

I have some very good friends that I am very close to who are horsemen who are 100 percent convinced that the medication rules that exist in Kentucky are best for the horse, for the public, for the trainer and best for the State.

From the standpoint of the integrity of the public, Churchill Downs, Inc., has joined in this resolution, and we are willing to run that risk, if it may please, to support no-race-day medication. That flies in the face of what my horse-trainer friends tell me is best for the horse and the business.

Senator MATHIAS. I have similar friends.

Mr. STONE. As far as the economics are concerned, we are all aware of the budget problems of the U.S. Government. We are also well aware of the budget problems of many States, Senator, and balancing that; and in racing, if we find ourselves burdened with an additional cost in a regulated industry such as racing, they pass the costs down to the industry itself.

Senator MATHIAS. I want to get to the cost question, but going back to Mr. Belmont's testimony and coupling it with what you have just said, the fact that the change which took place in racing over the last generation would have to be reversed, and that it would have such a serious long-term impact on racing is some measure of the hold that medication has taken. It is some measure of how serious this problem is.

Now, you mentioned the budget question, and I think that is an important one. We are all very budget conscious today. The Justice Department talks in terms of $50 million in enforcement costs. That would have to be substantiated, but if Dr. Maylin is correct that the current State-enforcement costs are something in the neighborhood of $5 million, and I think you have to recognize that this is an off-the-top-of-the-head figure that he has given us, I would assume that $50 million was a rather liberal estimate, and that the current costs would be absorbed as part of the new additional problems that might be adopted, either voluntarily or involuntarily. So that you are not really talking about an enormous new cost to the industry. Isn't that true?

Mr. **Stone**. Senator, I don't know what the actual dollar costs of the Federal program or the States adhering to a Federal program would be. I do know that past history has shown that the racetracks and, subsequently, owners and trainers help pay that bill. My main concern and my trade association, with this piece of legislation, sir, if I could read very quickly one paragraph on page 16, continuing on page 17:

> For each fiscal year thereafter, the Administrator may, in order to meet the costs necessary to carry out this Act, assess a daily fee for each racing day upon the operation of every horseracing facility, subject to the provisions of this Act. Such fees may vary and take into account the size of the facility. They shall be assessed and collected in accordance with such procedures as the Administrator shall, by regulation, prescribe.

We are concerned about that blank-check paragraph.

Senator **Pryor**. May I just say something? I am wincing.

I think if people of this country as consumers and bettors at the track had a vote in this committee and wanted the protection they need and deserve, I think they would support this bill.

If we could poll the jockeys of this country and ask them whether they would like the horse they are riding to be drugged or not drugged, I would think they would vote to have it not drugged. But many jockeys are afraid to come forward and testify, because they might oppose the owners of horses they ride, and they are afraid they might not get to ride again.

If the horses of this country could vote, I think they would vote for this bill, as would those who support this bill as humane legislation. Yet, we are approaching this whole matter, it seems to me, as a pure dollar-and-cents pocketbook issue, and I don't think that is the primary issue.

End of sermon, Mr. Chairman.

Senator **Mathias**. Well, it is a useful observation, I think. It has been my experience, however, that if you can examine both the humane issue and the economic side of an issue and find that both of them point in the same direction, that the issue is then mutually reinforced. I am astounded, for example, to learn that the cost of premature births in this country is $9 billion. Now, if you only go out and fight for an appropriation for the National Institute of Child Health and Human Development on the basis of the fact that it is a humane thing, you have a very tough time around the Congress in this budget-conscious area. But if you point out that programs, by investing a relatively small amount in the study of premature births, can reduce the instance of premature births by 50 percent, and that it is going to save you $4½ million, then you have both the humane issue and the economic issue moving in the same direction. I would hope that that is the kind of principle that we can operate on in the conduct of this investigation.

That brings me to the question of: Are there any economic advantages in moving to a no-drugs policy?

There has been testimony today that the betting public would have increased confidence if there were rules and track records that were meaningful. What about that? Does anyone on the panel care to comment on the fact that there may be some economic advantages of Senator Pryor's humane policy?

Mr. **Belmont**. Senator, I think I stated in the long run, yes, the health of this sport is dependent on the public's confidence, and the actual fact that the horses are running to their own natural abilities.

What I was referring to was not the long-term financial loss, but that there might be a real shock of a short-term financial loss at the time of the imposition of such a thing—such an act.

And I suggested that I think the very hearings, the very thing that is going on, would be helpful in perhaps bringing the industry a little more actively toward getting together to try to do this under the present machinery.

Now, how long that should be, whether 2 years is enough or whether it isn't, I really have no way of judging.

Senator **Mathias**. We have a habit in Arkansas of saying, "How long, oh how long?"

Senator **Pryor**. That was Tennessee, Frank Clements. [Laughter].

Senator **Mathias**. Mrs. Ringquist, you made an ardent plea for avoiding Federal regulation and achieving the achievements of the bill. How long, oh how long?

Mrs. **Ringquist**. I will defer to Joe O'Dea, who will be speaking for the NASRC. I think most of us feel racing is better conducted without medication on race day, and I think 2 years is certainly a goal to shoot at. In 2 years, we might say, "We haven't quite made it, but we are getting there." But I think this is the way we would like to go.

Senator **Mathias**. It is an honor for this committee to have a panel, such as this, come to testify, and I reflect on the kind of influence that you individually and collectively can have, and I think it is a very powerful force, and the fact that you were willing to make the kind of commitment that you have made today in your testimony is impressive. If this kind of influence and leadership can be brought to bear, I think it can be meaningful, but this is a volatile situation, and there could be some events, and I can't predict now—my crystal ball isn't that good—some event that could take this out of our hands. It could be a very tragic accident at the track. It could be a spectacular scandal at some track that would raise a hue and cry for initial legislation.

As Senator Dirksen used to say, "Nothing is so irresistible as an idea whose time has come." If at that particular moment, the time of the Pryor bill would have come, and I think your time to exert your considerable influence may be limited by factors we can't foresee.

It was a pleasure to have you here, and I appreciate all your testimony.

Senator Pryor, do you have any other questions?

Senator **Pryor**. No, thank you.

Senator **Mathias**. Thank you all.

[The prepared statement of Mr. Belmont follows:]

Prepared Statement of August Belmont

Mr. Chairman and members of the Subcommittee. I am August Belmont, Chairman of The Jockey Club.

The Jockey Club was founded in 1894 by then prominent horse owners and breeders to provide uniform rules and regulations in an effort to eliminate pervasive abuses in the racing and breeding of Thoroughbreds in the United States at the turn of the century.

Throughout the years The Jockey Club initiated or directly supported such innovations as the first codified rules and regulations for the conduct of Thoroughbred racing, the professional training of officials administering pari-mutuel race meetings, independent investigating agencies to help police the sport and, more germane to the issue at hand today, diligent efforts dating back to the 1920's and 30's to detect and control the use of substances that could affect the performance of horses competing in races open to Thoroughbreds. While today The Jockey Club has no direct regulatory responsibilities for the day to day conduct of racing, it continues as an organization dedicated to the improvement of the racing and breeding of Thoroughbreds and is directly responsible for maintaining the integrity of Thoroughbred breeding lines through its registry function and publication of The American Stud Book.

It is in this vein that we welcome the opportunity you have afforded us to comment briefly on the proposed legislation on the control of the use of medication in competition horses. I think it is appropriate to point out at this juncture that, The Jockey Club a year ago, by unanimous vote of its members at their Annual Meeting, publicly supported the elimination medication which would affect the racing performance of horses.

The Thoroughbred racing and breeding industry is not an insignificant one. In 1980 6.7 billion dollars were wagered at Thoroughbred tracks generating 445 million dollars in direct revenue to state and local governments. In that, same year over 36,000 foals with an average value, reflected at public auction, of 35,000 dollars each, yielded a cash crop worth an estimated one billion, two hundred and sixty million dollars. Revenue to state and local government, investment in farms and breeding stock, the thousands of people directly employed in the racing and breeding industry as well as the corporations and agricultural interests, many in non-pari-mutuel states, however, all depend on a stable and healthy racing enviornment. The proposed legislation now before the Congress, we fear, would have a very destablilizing effect on racing. Its reverberation throughout the industry and those interests that are dependent upon it would be significant.

Over the past two decades state government, in its quest for even more revenue from racing, has increased dramatically the number of racing days. Simultaneously, increased costs to owners and a purse structure that has not kept pace with inflation has made it increasingly difficult for the average owner to expect any return on their investment. The result has been tremendous economic pressure on owners to race their horses more often. This has, as the Committee is well aware, brought pressure for increased use of theraputic medicine to keep horses in training.

The policy questions we feel must be addressed in the present circumstances are:

> 1. What substances present a demonstrable danger to the horse or rider as a result of their use.
>
> 2. What substances materially alter the performance of a horse by artificially stimulating or depressing the natural attributes of the particular animal or mask in laboratory procedures the presence of substances having such an effect.
>
> 3. Given such evidence how should they be controlled, by whom and who should pay the costs for such control.

The National Association of State Racing Commissioners (NASRC), on the advice of the most prominent racing chemists in the United States, has developed a balanced set of guidelines which outlaw demonstrably dangerous drugs and known stimulants and depressants. They also limit the use of substances racing chemists believe have a masking effect on the detection of abusive drugs. These guidelines are not perfect. They must stand the test of continued research on the effects of various substances on the horse and the judgement of our most competent racing chemists regarding any impact on detection procedures. Similarly, the Uniform Drug Testing and Quality Assurance Program of the NASRC, which The Jockey Club helped finance in its initial stages, is a major step toward evaluating and improving laboratory performance. Without competent laboratories any statutory prohibitions only invite contempt.

The pace of implementation of the NASRC medication guidelines has been slow. Likewise, only a few states are actively participating in the Uniform Drug Testing and Quality Assurance Program. We cannot, however, undo in two years the effects of policies and economic circumstance that have evolved over the past two decades. We believe that state government is the most appropriate level of government to regulate the sport. Similarly, the resources needed to effectively implement a restrictive medication program must come from those same state governments. They are, after all, the largest beneficiaries of the sport, while the average owner can, according to recent studies, expect to experience a negative cash flow from participation in racing. In these times, however, Senators, you appreciate, more than we, the pressures on legislators to avoid new programs and limit expenditures. It is a tough fight. However, we think the number of states who have adopted the program is encouraging given the legislative realities of the times.

At the 1981 Round Table Conference The Jockey Club was honored to have the Chairman of this Subcommittee, the senior Senator from Maryland, address Thoroughbred industry leaders from around the country. There, Mr. Chairman, you urged the industry to move forthrightly toward the elimination of abusive medication in racing. The industry has not met the objective but it is moving. We would hope that you would keep the pressure on. We also, however, hope you would not implement the legislation before you. The cure could kill the patient.

SUMMARY

The Jockey Club, the breed registry for Thoroughbreds and an organization dedicated to the improvement of Thoroughbred breeding and racing, believes it would be inappropriate to enact the legislation currently before the Senate Judiciary Subcommittee on Criminal Justice, namely, S. 1043.

The breeding and racing of Thoroughbreds has become a multi-million dollar industry, providing thousands of jobs, and generating over 400 million dollars in direct revenue to state and local governments. Enactment of S. 1043 could have a destabilizing effect on this important industry.

Over the past two decades state government, to enhance revenues, required more racing dates and at the same time, purse money did not keep pace with inflation. The twin thrust of these two pressures encouraged the demand for theraputic medications.

The National Association of State Racing Commissioners (NASRC) has drawn up guidelines to control the use of medications affecting the performance of horses. Further, the NASRC has developed a Quality Assurance Program to enhance state laboratory competence in detecting these forbidden substances.

These efforts are not perfect. The objective has not yet been met. The pace is slower than we would hope. However, there has been significant movement. The Jockey Club would urge the Subcommittee not to pass the proposed legislation but to continue pressure for reform.

Senator **Mathias**. Our final panel today is Mr. Anthony (Tony) Chamblin, the executive director and secretary-treasurer of the Horsemen's Benevolent and Protective Association, and Dr. Joseph O'Dea, first vice president, National Association of State Racing Commissioners.

STATEMENTS OF JOSEPH C. O'DEA, FIRST VICE PRESIDENT, NATIONAL ASSOCIATION OF STATE RACING COMMISSIONERS, AND R. ANTHONY (TONY) CHAMBLIN, EXECUTIVE DIRECTOR AND SECRETARY-TREASURER, HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION

Senator **Mathias**. Gentlemen, you had the stage set for you by a very impressive group of predecessors, and now you can clean up the scene.

Dr. **O'Dea**. Do you have any preference who goes first?

Senator **Mathias**. Your preference.

Dr. **O'Dea**. I don't know whether the guillotine has been raised, but my name is Joseph C. O'Dea. I am a member of the National Association of State Racing Commissioners, and I am a veterinarian.

The matter before us today is a regulatory matter and has its origins in the relationship between man and beast—in this case the horse.

The philosophy of the industry and of the agencies which regulate it has been in place for many years and serves as the guide for regulatory control.

One, man has domesticated the horse and conditioned it to serve many useful and enjoyable purposes.

Two, in the course of that use, the horse frequently endures athletic stress and strain much like its human counterpart.

Three, having removed the horse from its natural state, and having accepted it in the various roles for which it is useful, we acknowledge our parallel responsibility to ensure that the horse has the best possible care. Part of that required care may be medical or surgical, including the ethical administration of drugs approved for use in the horse.

Four, bearing these three points in mind, we then insist that the integrity of the contest and the welfare of the horse must be safeguarded, and we require that a horse must not race with the presence of pharmacologically active drugs in his system.

The worldwide drug culture in which we live extends into other human pursuits and racing is no exception. Imported drugs and experimental drugs do find their way into racing, and a constant effort is waged to control them, frequently after the fact, because of the confidentiality insisted upon by the pharmaceutical industry and the limitations of Federal drug control.

In the laboratories of some jurisdictions, there have been insufficiences in analytical know-how. To correct these insufficiencies, the National Association of State Racing Commissioners has implemented a system for "quality control" which will be discussed here today by Dr. George Maylin.

A continuing effort to protect the health and welfare of the American racehorse is in place and works well. In addition, to medications testing, most jurisdictions now insist upon racing soundness examinations on race day and the maintenance of a race to race health and soundness record of competing horses. Most jurisdictions enforce regulations which specify construction details, minimum stabling requirements and exercising facilities. Prior to entering upon the racetrack property the racehorse is submitted to serological tests and immunization against certain problem diseases. Manned-horse ambulances are maintained during exercising and racing, and many tracks have surgical and radiographic facilities.

The veterinary profession, through the American Association of Equine Practitioners, has helped the ethical practice of equine medicine and surgery to move forward at a rapid pace and techniques and protocols developed in racing have been adapted for use in human practice. The association provides a comprehensive system of continuing education for its over 3,000 members, and calls to account those who breach their professional ethics and responsibilities.

A special age-old bond endures between man and the horse, which all of our mechanical developments have failed to tear apart, and the American racehorse is as well, or better, cared for as any domestic animal.

In conclusion, it is our opinion and our belief that:

One, the purposes for which the proposed Federal statute has been prepared are being adequately and efficiently addressed by State government.

Senator MATHIAS. Doctor, would you suspend just a second?

Doctor, this time will not be charged against you.

Dr. O'DEA. Thank you, sir.

Senator MATHIAS. I apologize for the interruption, doctor, but there are some calls that you have to take.

Dr. O'DEA. Certainly.

Two, the regulation of the racing industry and the breeding infrastructure to which it is directly tied is a State responsibility and State prerogative.

Three, twenty-three out of twenty-nine racing States have undertaken major reforms in line with guidelines prepared by the National Association of State Racing Commissioners, and the remaining States are seeking means to implement similar reforms.

Four, a major research effort has been undertaken by the industry, the cost and benefits of which will be shared by the industry.

Five, in light of the singular nature of the racing industry and its relationship to local agriculture and commerce, we question the ability of a new Federal bureaucracy to regulate with the same high degree of efficiency which is already in place through the efforts of State government.

Six, we hold that the added financial burden on the Federal budget, which the implementation of the proposed statute would require, is unnecessary.

Senator MATHIAS. Thank you very much.

Mr. Chamblin?

Mr. CHAMBLIN. Thank you, Mr. Chairman.

No group in horseracing is more concerned about the medication issue than the Horsemen's Benevolent and Protective Association

[HBPA]. Our organization represents the interests of more than 55,000 owners and trainers of thoroughbred racehorses in North America. Our members have the largest direct investment in this industry. The net worth of the more than 65,000 horses which race in this country annually is between $1.5 and $2 billion. These owners and trainers are closely and humanely involved with their animals. They are devoted to their animals. Most of them understand the medical ailments which afflict their horses and the need for modern therapeutic treatment of these ailments. The owners also understand that the cost of keeping a thoroughbred in training ranges from $10,000 to $20,000 per year while the average horse, which raced in 1981, earned only $7,706. Further, 50 percent of all runners earned less than $2,900 last year.

My purpose as the HBPA representative today is twofold:

One, to inform the committee of the HBPA's position with respect to the use of medication.

Two, to state unequivocally that there is no need for the Federal Government to become involved in the sport of racing.

For the past several years, the medication issue has created much controversy within our industry. The controversy expanded when representatives of humane groups lobbied before various State racing commissions to severely restrict the use of therapeutic medication in horses. Let me stress the fact that we are talking only about therapeutic medication, not stimulants, not depressants, not narcotics. The HBPA has always been unalterably opposed to the use of these drugs, and we do not advocate the use of medication on race day other than for confirmed bleeders. We have, however, supported the use of nonsteroidal, anti-inflammatory medication 24 hours or longer before a race, and the use of furosemide (Lasix) under controlled situations for horses that bleed. Because the vast majority of our members—the people who own and train the horses, the people who work with them each and every day of the year—have stated that these medications are necessary for their operations to exist.

Change is a slow and painful process. Human beings by nature do not wish to back away from previously stated positions. But just as the States have begun to show renewed interest in racing, the HBPA position on medication has been substantially softened. Last January, the HBPA Board of Directors adopted a proposed medication rule—a rule which we believe can lead to agreement within the racing industry. It has already formed the basis for extensive discussion within the industry and more is planned.

This proposed rule is quite similar to the current NASRC guidelines and to existing rules in most racing jurisdictions. The basic differences are: No. 1, that the HBPA rule would permit the administration of one nonsteroidal therapeutic medication up to 24 hours before a race; No. 2, the rule would provide for the use of furosemide up to 4 hours prior to a race for those horses which have been diagnosed as suffering from epistaxis (bleeding); whereas, the NASRC rule, in effect, prohibits the administration of any medication within 48 hours of post time.

The HBPA proposal has been well received by other groups within the racing industry. Representatives of our organization and the NASRC have met in recent weeks to discuss our differences.

The HBPA has stated in these meetings that it is prepared to offer financial support, jointly with the NASRC and the Thoroughbred Racing Associations [TRA], for research programs which may answer many of the questions of those who object to our position. In fact, we have donated many thousands of dollars in the past 2 years for such research at such respected institutions as the University of Pennsylvania's New Bolton Center and the Veterinary College at the University of Kentucky.

In 2 weeks, we will be meeting with the NASRC Veterinary-Chemist Advisory Committee and with researchers to review existing research and to develop protocol for future needed research. We have repeated our desire to have a rule which is both enforceable and humane. Our members believe that the use of certain therapeutic medication is safe 24 hours prior to the race and provides for the humane treatment of the racehorse.

The HBPA rule would prevent unsound animals from racing through the application of a strong prerace veterinary inspection. And it would allow the owner an opportunity to derive a return on his substantial investment while also providing the necessary horses to fill races which generate the vast tax revenues so vital to most States. With reference to Dr. Maylin's statement as to what racing States are spending, I don't believe his estimates include costs for laboratories, or collection facilities and some of the other salaries and moneys which are spent currently by racing States. I am certain when those figures are added in that Dr. Maylin's figure would far exceed $5 million, and would perhaps be $20 million or more.

In closing, it is the HBPA position that there is no need for S. 1043 or for the Federal Government to become involved in regulating an area which historically has been the province of the States. While we have not always agreed with their decisions, State racing commissions generally have administered this sport well. There is no reason to believe the Federal Government can do better. The issue before this committee today is only one of many problems with which racing is grappling. It happens to be a highly emotional issue and one which attracts headlines. We believe, however, that the industry groups have illustrated their desire to resolve the problem and that in recent months, opposing factions have moved much closer to such a resolution.

Finally, I wish to compliment you and the other members of the committee for your interest in this area. You have certainly motivated our industry to take a long hard look at the problem and to take the steps necessary to solve it. In that respect, we sincerely hope that racing and the horse will be the beneficiary of your interest.

Senator MATHIAS. Thank you, Mr. Chamblin.

Dr. O'Dea, I see that there is some poetry in your soul. You say there is "a special age-old bond that endures between man and the horse which all of our mechanical developments have failed to tear apart," and I certainly agree with that.

I just don't see how anyone could look at a field of broodmares and foals, or could witness the Maryland Hunt Cup and see the horses going over those jumps, or go to Pimlico and watch them coming down the homestretch, or see children riding on ponies and not understand exactly what you are saying. I feel that very deeply, that there is something that tugs at us when we associate with horses and when we associate the long history of man, which has been so closely related to the horse's.

Now, in your statement, you said that the purposes for which the Pryor bill was addressed are being adequately and sufficiently addressed by State government. But before, on page 2, you said that in the laboratories of some jurisdictions, there have been insufficiencies in analytical know-how to correct these insufficiencies the National Association of State Racing Commissioners have instituted a system of quality control.

But Dr. Maylin, in describing the quality control program, identified the States, and they are far less than the total number of racing States, so I am wondering whether or not there isn't, in fact, some gap between the goals of the Pryor bill and the present performance of the States?

Dr. O'Dea. I think there definitely is. I think it is obvious, and statistically obvious that there is a gap at the present time. But the industry—as an industry is moving forward in all directions to see that the guidelines of the NASRC are implemented. We have had a few areas of legislative intervention, and intervention by the courts. They have been a little bit slow in this process.

In the matter of implementing the guidelines, we have suggested that there be a grandfathering in, and we still have six States where the grandfathers move a little slowly. But the fact is that in all areas we are improving and we are making progress.

Now, I think the matter that George Maylin has spoken to, there is no question that there is need and definite need for the upgrading of our laboratories. There are various and sundry reasons why the laboratories of some States have not affiliated. We just hope with the progress that is being made that over the next years the other States will contribute to one of our reference and research centers.

However, the two that we have at the present time are capable of handling the needs of the country.

I think there is a fact. I think there is an insufficiency, but I think we are addressing the insufficiency, and we are moving in the right direction, and I think in a relative period of time it will be accomplished.

Senator Mathias. You have some very critical States, of great importance to racing: California and Kentucky. Do you hold out any hope that you are going to attract California and Kentucky to the guidelines, the NASRC guidelines?

Dr. O'Dea. Well, actually, California has adopted a good bit of the guidelines. They have not adopted the matter of a prohibition on Lasix. As far as Kentucky is concerned, they are not in conformity. It is rather sad that that source of thoroughbred racing in the United States does not conform. I do have hope that they will all join.

In my box score here of conformity and nonconformity, we have six States that do not conform: Colorado, Kentucky, Massachusetts, Michigan, South Dakota, and Washington. I feel very sure that Massachusetts will very shortly be under the guidelines. Michigan is rewriting its rule, and I feel that Michigan will come along very closely.

I really can't tell you what is going to happen to Kentucky thoroughbreds. I am not familiar with the situation in South Dakota. It is not a major racing State. Washington and Colorado have substantial racing, and I hope they would join the guidelines.

Senator **Mathias**. Of course, I do revert to the question of money. I would like Senator Pryor to redirect my priorities if I get too far off the economic side, but Mr. Chamblin, you said the cost figures we have been discussing are not accurate, that 5 million would be the estimate of the cost of enforcement.

I will ask the staff to get from the Congressional Reference Service the best information that is on the record. I will also ask the Justice Department to give us the justification for the $50 million estimate which I think is very high, but the explanation for these various estimates may be as you have them. You have suggested in your testimony the items that are included. So I am wondering if we may have your help in trying to reach the best estimate, because I think the dollar figure will be of some importance in making a firm judgment here.

[See appendix, p. 161, for DOJ letter with cost estimate.]

Mr. **Chamblin**. Certainly.

Senator **Mathias**. Also, I think it ought to be clear which of these would be redundant. In other words, if we move to some different system than we have today, what would be the additional cost and what would simply be the continuation of the current program, plus such reinforcement and strengthening as may be required by a new approach.

Let me ask you, Mr. Chamblin: Is it correct to say that your position, your institutional position, that horses should not be allowed to race under the influence of painkillers, but that allowances should be made of the training of horses, using therapeutic drugs? Could you explain that?

Mr. **Chamblin**. Our position, Mr. Chairman, and we have submitted a copy in our complete statement of the HBPA-proposed rule, which, incidentally, was adopted by 25 of the 26 HBPA divisions, so it is virtually unanimous, calls for the use of one anti-inflammatory medication 24 hours or more prior to a race, and it does call for the use of furosemide 4 hours prior to a race for horses that have been diagnosed as confirmed bleeders. The research that has been done by Dr. Soman at New Bolton and Dr. Tobin at Kentucky indicates that Lasix is a useful drug for horses which bleed, and I believe they could offer additional testimony to this committee in terms of written testimony if you so desire on that subject.

But our position is not substantially different from the NASRC guidelines, except in those two areas. The NASRC rule, basically, calls for therapeutic medication to end 36 to 48 hours prior to a race. We call for it to end 24 hours prior to a race, except for the use of Lasix for bleeders.

Senator **Mathias**. Senator Pryor, did you have a question?

Senator **Pryor**. Yes. Which association has the stricter rules for the use of medication in horses?

Dr. **O'Dea**. NASRC does.

Senator PRYOR. Mr. Chamblin, is it true that your association might be in consultation with the National Association of State racing commissioners to basically relax some of their provisions or guidelines?

Mr. CHAMBLIN. We have offered our guidelines to the NASRC for their study. We have agreed with the NASRC that further research is needed in this area. We have met with the NASRC. We are going to be meeting with them in the future; in fact, in the next 2 weeks, there will be a committee meeting at New Bolton, to determine the validity of current research and to determine what research is needed to give us the answers as to just exactly what effects certain medications have on horses at various times and dosage levels.

Senator PRYOR. But what you are really saying, though, is that you are seeking a relaxation of the guidelines?

Mr. CHAMBLIN. We are asking that the rule that has been proposed by the HPBA be approved and recognized by the racing industry as one that is fair and humane.

Senator PRYOR. Then what is the response from the racing commissioners?

Dr. O'DEA. The racing commissioners say this, that the HPBA and some of their scientists have suggested that the residue limit, which is 2 micrograms per milliliter of plasma, may be invalid.

The only research we have at the present time shows that at 2 micrograms the level is inactive residue, that there is no pharmacological effect. In excess of that 2 micrograms, there is a pharmacological effect. We established our level at 2 micrograms.

Now, being objective people, if there is research which can be examined by extra industrial experts, and by nonpartisan scientific review, which will show that active pharmacologic effect ceases at 5 micrograms or at some other level, then if we are objective people we have to look at that sort of situation. But we still insist and we are not going to move from the position that we do not want active pharmacological effect during the contest.

Senator PRYOR. All right. I believe you said your organization supports "tremendously" the use of Lasix. Is that correct?

Mr. CHAMBLIN. That is correct.

Senator PRYOR. Does not the use of Lasix mask the presence of the other drugs?

Dr. O'DEA. We have had lengthy discussions with the analytical chemists, and Lasix is a diuretic and would have a flushing effect. So you have a situation where you do have drugs flushed from the animal's body with the amount of fluids passed so that the relative amounts with relation to the volume is altered, which makes the routine examination for drugs much more difficult. Masking, per se, the chemists tell me no. You do have an untoward effect from the flushing.

Senator PRYOR. But you would admit that it increases the difficulty of ascertaining the presence of other drugs?

Dr. O'DEA. Makes the laboratory job more difficult.

Senator PRYOR. Probably much more difficult?

Dr. O'DEA. Dr. Maylin can answer that one.

Senator **Pryor**. Both of you represent organizations which speak for a lot of people. My friend, Senator Mathias, doesn't like to call racing an industry, but even the industry calls itself an industry.

What penalties does each of your organizations now have for trainers who test positive for a drug in a prerace test? Let's take the National Association of State Racing Commissioners. What do your guidelines call for?

Dr. **O'Dea**. The national guidelines do not suggest one, but leave it up to the individual commissioners, because in the American system, the circumstances and the total breach of the regulation should be considered.

In my own jurisdiction, we start off on the basis with the first infraction of 60 days, 60 days' suspension.

Senator **Pryor**. For the trainer or the horse?

Dr. **O'Dea**. For the trainer. He is denied the privileges of the grounds.

Senator **Pryor**. But once again, each individual State would be responsible for this, is this not correct?

Dr. **O'Dea**. Each commission would be responsible to hear those cases and, based on the specific case, make the determination.

Senator **Pryor**. So the NASRC guidelines have no penalties.

Mr. Chamblin, what does your organization support? Have you come out for a penalty provision?

Mr. **Chamblin**. We have not addressed a specific penalty. We leave that up to the regulatory authorities, but our organization has a policy and in the stated position of our national officers has expressed a desire for strong penalties for violators of a medication rule which is deemed to be fair and enforceable.

If there is such a rule adopted that our group would feel would be fair and enforceable, we would certainly support strong penalties for violators.

Senator **Pryor**. $10,000?

Mr. **Chamblin**. We have not addressed that issue.

Senator **Pryor**. Jail?

Mr. **Chamblin**. Speaking to your bill, Senator, I do not believe that it is fair, and our organization does not believe it is fair to penalize an owner $10,000 and subject him to a possible felony indictment or conviction when he may have had no responsibility whatsoever.

Senator **Pryor**. And as to the trainer versus the owner, what is your organization's position?

Mr. **Chamblin**. If the trainer is convicted of using a narcotic, stimulants, or depressants, we recommend the most severe penalties.

Senator **Pryor**. Well, both of you have testified that you oppose medication.

Mr. **Chamblin**. No, I have not.

Senator **Pryor**. You support some medication, and Mr. O'Dea opposes it?

Dr. **O'Dea**. I don't oppose it. I think that should be very clear, that we have a responsibility to the horse to see that that horse has everything that is due him, just as the human athlete should have it, in training, and we believe he should have it in training.

Our prohibition is that he should not have it during the contest.

Senator PRYOR. But you don't want a law to protect that.

Dr. O'DEA. Our regulations protect it.

Senator PRYOR. Statutes are stronger than regulations. Neither of you seems to want a law to protect this industry and this right. That is what I am getting from your testimony.

Dr. O'DEA. I think the law and the bureaucracy that would be necessary to support that law is unnecessary at this juncture.

Senator PRYOR. We have a bureaucracy in every State. In fact, we have 30 different racing bureaucracies. If we were to consider the sport of football, it would be like playing on a field 632 yards long in Maryland. Or if you were to consider baseball, it would be like playing with five bases in one State and six in another.

That is what we are faced with—a patchwork, piecemeal approach, when basically a single, simple law would seem to me to be the answer. That is how I am trying to approach the problem, by bringing everything together.

Dr. O'DEA. But, Senator, we don't have a Federal statute establishing the length of football fields. We do have a national conference——

Senator PRYOR. And they have all gotten together.

Dr. O'DEA. I think given time, and we have made so much progress in the last 2 years that I think the progress needed to fulfill this thing will be a relatively short time. We are moving in that direction. We have different rules in football and we have different situations in racing wherein there is a disparity when you go from a little State in the Rockies to the great State of New York, and vice versa, and we have to consider the various ground rules and the situations that happen in those States.

Senator PRYOR. Do you look at racing as an interstate business?

Dr. O'DEA. It doesn't matter whether I do or not. It is interstate.

Senator PRYOR. *Marbury* v. *Madison.*

Thank you, Mr. Chairman.

Senator MATHIAS. I have one final question. Although I may not like to call racing an industry, I am willing to admit some industrial problems. What about this question of the effect of new enforcement, whether it is done at the State level or the Federal level, on the number of horses available for racing, having in mind that we are not only dealing with big, financially strong States, but that I suppose an overwhelming number of horsemen are small owners?

Mr. CHAMBLIN. That's correct.

Senator MATHIAS. With a couple of horses, and in a somewhat precarious financial structure, and if they were subjected very quickly to too rigid a change, it might have undesirable effects.

You heard Mr. Belmont's testimony, that if we change course and impose a new program quickly, there will be hardships. You also heard Dr. Maylin's testimony that he thought over a period of time the industry would recover. How do you feel about that?

Mr. CHAMBLIN. Well, I happen to get around the country quite a lot because we do represent horsemen in 29 racing States and Canada, and I have seen all types of racing at all types of tracks.

I firmly believe that 99.9 percent of the participants in this industry are honest people, and the statistics of the National Association of Racing Commissioners substantiate that figure when you look at the very minute number of positives of all the testing in this country. The figure is very, very small.

I would say that from an economic standpoint, based on the testimony of our members at smaller tracks, they feel that the implementation of Senator Pryor's bill would have a drastic effect on their stables, and that many of them——

Senator **Mathias**. Do they differentiate between short range and long range, as the testimony today has?

Mr. **Chamblin**. They are speaking of the immediate impact, that if they were not able to treat their horses with modern therapeutic, what we consider to be humane, medication 24 hours before a race, they feel that in many cases a horse with a very minor ailment would not be able to race and participate in the sport, and this is the substantial opinion of the vast majority of owners and trainers at the smaller racetracks, and of course the smaller racetracks are dominant in this country.

Senator **Mathias**. I have just one final question of Dr. O'Dea.

The State of New York has the most comprehensive testing program in the country, I suppose, but even in New York they just adopted a new medication rule which allows a relatively high level of steroids, I believe. Is that not true?

Dr. **O'Dea**. We have written our rule. Our rule is considerably more stringent than the previous rule, and we do permit the use of steroids at 48 hours. But we have always permitted it at 48 hours. The use of steroids interarterially has been moved back 5 days.

The rule was written in great detail, because we felt the people bound by the rule should have it laid out to them what they could and could not do. Our previous rule said they could not administer anything after the time of the closing of the entries.

So the horsemen can know just what their parameters are, so I think the rule will work and work well.

Senator **Mathias**. Your testimony is that the recent rule changes in New York had the effect of tightening rather than loosening?

Dr. **O'Dea**. No question about it. If anybody would like to discuss it in detail, I would be happy to go over it, because I know some people have misinterpreted it.

Senator **Mathias**. Some of the information that has come to the committee moves in the other direction.

We are glad to have your testimony on that point.

If there is anyone who can contest your point of view, the record is open.

Dr. **O'Dea**. Senator, if I may for the moment, Senator Pryor asked me if I thought racing was interstate, and I think he knows it is. By the same token, in my State of New York, it provides an income of $500 million a year. In addition to that, the broad infrastructure which has been developed in the breeding industry and the agro-commercial enterprise is astronomical. It is an income which we would like to maintain in New York.

We can see some things in this Federal bill wherein if it was implemented and the restrictions put on race tracks, that many of them, which are close to the margin, would close their doors, and if this happens, that total income could be closely damaged, and severely damaged. We would hate to have it happen.

So, while it is in interstate commerce, by the same token it is so important to State and local governments that I think we should bear that in mind.

Senator **Pryor**. What about cockfighting?

Dr. O'**Dea**. I am against it.

Senator **Pryor**. It would be a good industry.

Dr. O'**Dea**. Or bullbaiting, or whatever. I see no relationship.

Senator **Pryor**. We have been talking about hurting an industry, but what we are actually talking about is racing horses that should not be raced. It is this problem I am trying to bring to an end with this legislation. I guess that is where we differ.

Senator **Mathias**. Again, I find myself in a somewhat anomalous position, not wanting to recognize racing as an industry but to protect it, or at least see it preserved and maintain its health.

What I see from here is that the industry could be in danger if its own members don't perceive the danger, and don't perceive that there is a problem here, the problem which Senator Pryor has addressed very eloquently, and a problem that a great many people around the country have perceived.

If the States could come together with a program such as the New York program, and which has worked, has it not, in New York?

Dr. O'**Dea**. It has worked, and it has worked well.

Senator **Mathias**. That is perhaps the best answer to people who say you can't have an efficient and strict government program. Your estimate is that New York directly and indirectly derives $500 million from this industry?

Dr. O'**Dea**. From this industry.

Senator **Mathias**. From a strictly regulated industry?

Dr. O'**Dea**. Yes.

Senator **Mathias**. And are there horsemen who survive under that system?

Dr. O'**Dea**. It is going all the time. We don't have enough stalls at our tracks.

Senator **Mathias**. So that leads you to believe that that might work some place else without absolutely bankrupting the industry. True?

Dr. O'**Dea**. True.

Senator **Mathias**. I think there are some lessons to be learned here.

[The prepared statement of Mr. Chamblin follows:]

Prepared Statement of R. Anthony Chamblin

No group in horse racing is more concerned about the medication issue than the Horsemen's Benevolent and Protective Association (HBPA). Our organization represents the interests of more than 55,000 owners and trainers of thoroughbred race horses in North America. Our members have the largest direct investment in this industry. The net worth of the more than 65,000 thoroughbreds which race in this country annually is between $1.5 and $2 billion. These owners and trainers are devoted to their animals. Most of them understand the medical ailments which afflict their horses and the need for modern, humane and therapeutic treatment of these ailments. The owners also understand that the cost of keeping a thoroughbred in training ranges from $10,000 to $20,000 per year while the average horse which raced in 1981 earned only $7,706. Further, fifty percent of all runners earned less than $2,900 last year.

My purpose as the HBPA representative today is twofold:

1. to inform the Committee of the HBPA's position with respect to the use of medication; and,

2. to state unequivocally that there is no need for the federal government to become involved in the sport of racing.

For the past several years, the medication issue has created much controversy within our industry. The controversy expanded when representatives of humane groups lobbied before various state racing commissions to severely restrict the use of therapeutic medication in horses. Let me stress the fact that we are talking about only therapeutic medication—not stimulants, not depressants, not narcotics. The HBPA has always been unalterably opposed to the use of these drugs. But we have supported the use of non-steroidal anti-inflammatory drugs (NSAID) and the use of furosemide (Lasix) under regulated conditions for horses that "bleed" because the vast majority of our members—the people who own and train the horses, the people who work with them each and every day of the year—have stated that these medications are necessary for their operations to exist. We're also convinced that the use of these medications is not harmful or inhumane to the horse.

Change is a slow and painful process. Human beings by nature do not wish to back away from previously stated positions. But the HBPA position on medication has been substantially softened. Last January, the HBPA Board of Directors adopted a proposed medication rule—a rule which we believe can lead to agreement within the racing industry. Already, it has been well received and formed the basis for extensive industry discussion and more is planned. This proposed rule is quite similar to the current guidelines of the National Association of State Commissioners (NASRC) and to existing rules in most racing jurisdictions. We have been working closely with the NASRC in an effort to resolve the differences. One area in which the HBPA and NASRC definitely are in agreement is in their support of the Quality Assurance program for racing laboratories. Any rule that can't be enforced is unfair. Therefore, we have urged racing commissions from all states to adopt the Quality Assurance program.

Our Association is prepared to offer financial support, jointly with the states, the Thoroughbred Racing Associations (TRA), and other interested groups, for research programs which may answer many of the questions of those who object to our position. In fact, we have contributed many thousands of dollars in the past two years for such research at such respected institutions as the University of Pennsylvania's New Bolton Center and the Veterinary College at the University of Kentucky. In two weeks we will be meeting with the NASRC Veterinary-Chemist Committee and with researchers to review existing research and to develop protocol for future needed research. We have repeated our desire to have a rule which is fair, enforceable and humane. Our members believe that the use of certain therapeutic medication is safe and provides for the humane treatment of the race horse. The HBPA rule would prevent unsound animals from racing through the application of a strong pre-race veterinary inspection. And it would allow the owner an opportunity to derive a return on his substantial investment while also providing the necessary horses to fill races which generate the vast tax revenues so vital to most states.

In closing, it is the HBPA position that there is no need for Senate Bill 1043 or for the federal government to become involved in regulating an area which historically has been the province of the states. While we have not always agreed with their decisions, state racing commissions generally have administered this sport well. There is no reason to believe the federal government can do better. The issue before this Committee today is only one of many problems with which the industry is grappling. It happens to be a highly emotional issue and one which attracts headlines. We believe, however, that the industry groups have illustrated their desire to resolve the problem and that in recent months, we have moved much closer to such a resolution.

Finally, Mr. Chairman, I wish to compliment you and the other members of this Committee for your interest in this area. You have certainly motivated our industry to take a long look at the problem and to take the steps necessary to solve it. In that respect, we sincerely hope that racing and the horse will be the beneficiary of your interest.

Senator **Mathias**. Thank you very much for being here.

The subcommittee will stand adjourned, subject to the call of the Chair.

[Whereupon, at 12:10 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIX

PROPOSED LEGISLATION

97TH CONGRESS
1ST SESSION

S. 1043

To prohibit the drugging or numbing of racehorses and related practices, and to amend title 18, United States Code, to prohibit certain activities conducted in interstate or foreign commerce relating to such practices.

IN THE SENATE OF THE UNITED STATES

APRIL 29 (legislative day, APRIL 27), 1981

Mr. PRYOR (for himself, Mr. PELL, and Mr. RIEGLE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To prohibit the drugging or numbing of racehorses and related practices, and to amend title 18, United States Code, to prohibit certain activities conducted in interstate or foreign commerce relating to such practices.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEFINITIONS

SECTION 1. As used in this Act—

(1) the term "Administrator" means the Administrator of the Drug Enforcement Administration, Department of Justice;

(2) the term "drugging," when used with respect to a horse entered in a horserace, means the administering to a racehorse of any substance, foreign to the natural horse, prior to the start of a horserace;

(3) the term "numbing," when used with respect to a horse entered in a horserace, means the applying of ice, dry ice, a cold pack, or a chemical or mechanical freezing device to the limbs of a racehorse within ten hours before the start of such horserace, or a surgical or other procedure, which was, at any time, performed in which the nerves of such horse were severed, destroyed, or removed;

(4) the term "horserace" means any race of equine animals in any State in which parimutuel betting on the outcome of such race is permitted in such State;

(5) the term "entered," when used with respect to a horserace, means that a horse has been registered with the racing secretary or other authorized racing official as a participant in a specified race, and not withdrawn prior to presentation of the horse for inspection and testing pursuant to section 6(a).

(6) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Northern Mariana

Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

FINDINGS

SEC. 2. The Congress finds that—

(1) the practice of drugging or numbing a racehorse prior to a horserace—

(A) corrupts the integrity of the sport of horseracing and promotes criminal fraud in such sport,

(B) misleads the wagering public and those desiring to purchase such horse as to the condition and ability of such horse,

(C) poses an unreasonable risk of serious injury or death to the rider of such horse and to the riders of other horses competing in the same race, and

(D) is cruel and inhumane to the horse so drugged or numbed;

(2) the practice of drugging or numbing a racehorse adversely affects and burdens interstate commerce; and

(3) criminal penalties and other sanctions are necessary in order to prevent and eliminate such practices.

PROHIBITED CONDUCT

SEC. 3. The following conduct is prohibited:

(1) the entering of a horse in a horserace by the trainer or owner of such horse if such trainer or owner knows or if by the exercise of reasonable care such trainer or owner should know that such horse is drugged or numbed;

(2) the drugging or numbing of a racehorse with knowledge or with reason to believe that such horse will compete in a horserace while so drugged or numbed: *Provided*, That the Administrator may by regulation establish permissible trace levels of substances foreign to the natural horse that he determines to be innocuous;

(3) the willful failure by the operator of a horseracing facility to disqualify a horse from competing in a horserace if such operator has, in accordance with section 6(a) of this Act, been notified that such horse is drugged or numbed, or was not properly made available for tests or inspections as required under such section; and

(4) the willful failure by the operator of a horseracing facility to prohibit a horse from racing if such operator has, in accordance with section 5(f) of this Act, been notified that such horse has been suspended from racing.

PENALTIES AND ENFORCEMENT POWERS

SEC. 4. (a) CRIMINAL PENALTIES.—(1)(A) Except as provided in subparagraph (B) of this paragraph, any person who violates any provision of section 4 of this Act shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both.

(B) Any person who violates section 4 of this Act and who has been previously convicted for a violation of such section shall be fined not more than $25,000, or imprisoned for not more than three years, or both, upon conviction.

(2)(A) Whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with a person while such person is engaged in or on account of the performance by such person of any official duties delegated to such person under this Act shall be fined not more than $25,000, or imprisoned not more than three years, or both.

(B) Whoever, in the commission of any of the acts referred to in subparagraph (A) of this paragraph, uses or threatens to use a deadly or dangerous weapon shall be fined not more than $50,000, or imprisoned not more than ten years, or both.

(C) Whoever kills a person while such person is engaged in or on account of the performance by such person of any official duties of such person under this Act shall be punished as provided in sections 1111 and 1112 of title 18 of the United States Code.

(3) Whoever knowingly makes, or causes to be made, a false entry or statement in a report or account required to be made under this Act; knowingly fails to make full, true, and correct entries in such records; removes any such documentary evidence out of the jurisdiction of the United States; mutilates, alters, or by any other means falsifies any such documentary evidence; or refuses to submit any documentary evidence to the Administrator for inspection and copying shall be guilty of an offense against the United States, and upon conviction thereof shall be fined not more than $25,000, or imprisoned for not more than three years, or both.

(b) DISQUALIFICATIONS OF OFFENDERS.—(1) Except as provided in paragraph (2) of this subsection, any person who violates any provision of this Act shall, upon conviction thereof, by order of the Administrator, be disqualified from entering a horse in a horserace, operating a horseracing facility, or performing for gain any service rendered in connection with horseracing, for a period not to exceed one year.

(2) Any person who violates any provision of this Act and who has been previously convicted for a violation of such Act shall, by order of the Administrator, be disqualified from entering a horse in a horserace, operating a horseracing fa-

cility, or performing for gain any service rendered in connection with horseracing, for a period not to exceed five years.

(c) CIVIL PENALTIES; REVIEW AND ENFORCEMENT.—(1)(A) Any person who knowingly violates an order of disqualification issued under subsection (b) of this section shall be liable to the United States for a civil penalty of not more than $15,000 for each such violation.

(B) The operator of a horseracing facility which knowingly allows a person to enter a horse in a horserace or perform for gain any service rendered in connection with horseracing in violation of an order of disqualification entered under subsection (b) of this section shall be liable to the United States for a civil penalty of not more than $15,000 for each such violation.

(2) No civil penalty shall be assessed against any person under paragraph (1) of this subsection unless such person is given notice and an opportunity for a hearing before the Administrator with respect to such violation. The amount of any such civil penalty shall be assessed by the Administrator by written order. In determining the amount of such penalty, the Administrator shall take into account all factors relevant to such determination, including the nature, circumstances, extent, and gravity of the prohibited conduct, and, with respect to the person found to have engaged in such conduct, the degree of culpability, any history of prior offenses, ability

to pay, effect on ability to continue to do business, and such other matters as justice may require.

(3) Any person as to whom a civil penalty is assessed under paragraph (1) of this subsection may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia by filing a notice of appeal in such court within thirty days after the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty assessed, as provided under section 2112 of title 28 of the United States Code. The findings of the Administrator shall be set aside if found to be unsupported by substantial evidence.

(4) If a person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or, if an appeal is taken, after the appropriate court of appeals has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such recovery action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) SUSPENSION OF HORSE FROM RACING.—(1) Any racehorse found to have been drugged or numbed in violation of this Act shall, subject to paragraph (2) of this subsection, be suspended from competing in any horserace for a period of six months for the first infraction, and for a period of not less than twelve months for each subsequent infraction.

(2) No racehorse shall be suspended under paragraph (1) of this subsection unless the owner of such horse is given notice and an opportunity for a hearing before the Administrator within two weeks after the date on which the infraction referred to in such paragraph is discovered. The appeal procedure set forth in subsection (c)(3) of this section shall apply with respect to any suspension order made in a hearing conducted under this paragraph.

(e) NOTIFICATION OF SUSPENSIONS AND DISQUALIFICATIONS.—Notification of all suspensions and disqualifications under this section shall be transmitted to the operator of each horseracing facility in accordance with such procedures as the Administrator shall by regulation prescribe.

(f) MODIFICATION OF PENALTIES.—The Administrator may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty, disqualification, or suspension assessed under this subsection.

(g) PRODUCTION OF WITNESSES, BOOKS, PAPERS, AND DOCUMENTS; DEPOSITIONS; FEES: JURISDICTION.—

(1) The Administrator may require by subpena the attendance and testimony of witnesses or the production of books, papers, or other documentary evidence relating to any matter under investigation or the subject of a proceeding under this Act. Witnesses summoned before the Administrator shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(2) The attendance of witnesses and the production of books, papers, and documents, may be required at any designated place from any place in the United States. In case of refusal to obey a subpena served upon a person under this Act, the Administrator, or any party to a proceeding held before the Administrator under this Act, may petition the district court of the United States for the district in which such person is found, resides, or transacts business, to issue an order requiring such person to comply with such subpena.

(3) The Administrator may order testimony to be taken by deposition under oath in any proceeding or investigation pending before him, at any stage or such proceeding or investigation. A deposition may be taken before any person designated by the Administrator who has power to administer oaths. The Administrator may require the production of relevant books, papers, or other documentary evidence at the taking of such a deposition.

(4) Witnesses whose depositions are taken and the persons taking them shall be entitled to the same fees as are paid for like services in the courts of the United States.

(5) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act, and shall have jurisdiction in all other kinds of cases arising under this Act.

(h) DETENTION OF HORSES; SEIZURE AND CONDEMNATION OF EQUIPMENT.—(1) A person appointed under section 6 of this Act may detain (for a period not to exceed twenty-four hours) for examination, testing, or the taking of evidence, any horse at a horserace which is drugged or numbed, or which such veterinary doctor, based upon the results of an inspection, test, or other procedure conducted under such section, has probable cause to believe is drugged or numbed. Any horse which is detained subject to this paragraph shall not, during such detention, be moved from the place where such horse is so detained except as authorized by such veterinary doctor.

(2) Any equipment, device, paraphernalia, or substance used in violation of any provision of this Act or any regulation issued thereunder, or which contributed to the drugging

or numbing of any horse at or prior to any horserace, shall be liable to be proceeded against by process of libel for the seizure and condemnation of such equipment, device, paraphernalia, or substance, in any United States district court within the jurisdiction in which such equipment, device, paraphernalia, or substance is found. Such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.

INSPECTIONS, TESTS, AND RECORDS

SEC. 5. (a) APPOINTMENT OF PERSONNEL.—For purposes of detecting violations of this Act, the Administrator shall appoint qualified veterinary doctors, biochemists, and such other personnel as the Administrator considers necessary. Such veterinary doctors, biochemists, and other personnel shall, in accordance with such procedures as the Administrator shall by regulation prescribe—

(1) analyze the blood sample which shall be taken from each horse entered in a horserace no sooner than six hours and no later than four hours before the start of such horserace to determine if such horse has been drugged;

(2) examine each horse entered in a horserace within one hour before the start of such horserace to determine if such horse has been numbed;

(3) analyze samples of urine and blood which shall be taken immediately after a horserace from horses

that competed in such race, to determine if such horses have been drugged;

(4) perform such other similar tests and inspections as the Administrator considers necessary to carry out this Act;

(5) store blood and urine samples in a frozen state or in any other appropriate manner so that they may be preserved for future analysis.

The identity of any racehorse determined under this subsection to be drugged or numbed shall, in accordance with such procedures as the Administrator shall by regulation prescribe, be reported to the operator of the horseracing facility, the Administrator, and the appropriate United States attorney. The identity of any racehorse not made available, in accordance with such regulations as the Administrator shall prescribe, for any test or inspection required under this subsection shall likewise be reported to such operator.

(b) TESTING FACILITIES.—(1) The operator of a horseracing facility shall, in accordance with such regulations as the Administrator shall prescribe, provide the Administrator with adequate space and facilities in order that the inspections, tests, and other procedures described in subsection (a) of this section may be performed. Access to such space and facilities shall be restricted in accordance with such regulations as the Administrator shall prescribe.

(2) Any horseracing facility which fails to comply with paragraph (1) of this subsection shall, by order of the Administrator, be disqualified from holding horseraces while such facility remains in noncompliance with such paragraph. The operator of a horseracing facility which violates such an order shall be liable to the United States for a civil penalty of not less than $10,000, and not more than $250,000 for each day of such noncompliance.

(3) The provisions of sections 5 (c) and (f) of this Act, relating to the assessment, review, collection, and compromise, modification, or remission of a civil penalty apply with respect to civil penalties under this subsection.

(c) RECORDKEEPING AND REPORTING REQUIREMENTS; AVAILABILITY OF RECORDS.—The operator of any horseracing facility shall establish and maintain such records, make such reports, and provide such information as the Administrator may by regulation reasonably require for the purpose of implementing this Act or to determine compliance with this Act. Upon request of an officer or employee duly designated by the Administrator, such operator shall permit entry at all reasonable times for the inspection and copying (on or off the premises) of records required to be maintained under this subsection.

APPROPRIATE USE OF EMPLOYEES OF DRUG ENFORCEMENT ADMINISTRATION AND OF CONSENTING STATES; RESEARCH STUDIES

SEC. 6. (a) The Administrator, in carrying out this Act, shall utilize, to the maximum extent practicable, the existing personnel and facilities of the Drug Enforcement Administration, Department of Justice. The Administrator is further authorized to utilize the officers and employees of any State, with its consent, and with or without reimbursement, to assist him in carrying out the provisions of this Act.

(b) The Administrator shall conduct research studies to develop methods and techniques to identify drugging and numbing practices. The Administrator may contract for such studies with universities, schools of veterinary medicine or other institutions or individuals having special expertise in the detection of drugging and numbing.

STATE EXEMPTIONS

SEC. 7. At the request of the chief executive of any State, the Administrator shall exempt that State from the operation of this Act if he finds that the State has enacted and put into operation a comparable program to prohibit the drugging and numbing of racehorses. In determining whether the State program is comparable, the Administrator shall examine the practices prohibited by State law, the inspections and tests required, and the penalties imposed. The

Administrator shall review the operations of each exempted State's program on an annual basis and shall revoke the exemption if the program fails to meet the objectives of this Act. The assessment provided for in section 11 of this Act shall not be levied in any exempted State.

REPORTS TO CONGRESS

SEC. 8. On or before the expiration of eighteen calendar months following July 1, 1980, and every twenty-four calendar months thereafter, the Administrator shall submit to Congress a report upon the matters covered by this Act, including enforcement and other actions taken thereunder, together with such recommendations for legislative and other action as the Administrator deems appropriate.

AUTHORIZATION OF APPROPRIATION AND FEES

SEC. 9. There are authorized to be appropriated for the first two fiscal years beginning after the date of enactment of this Act such sums as are necessary to carry out this Act not to exceed $5,000,000 for the development of a Federal enforcement program. For each fiscal year thereafter the Administrator may, in order to meet the costs necessary to carry out this Act, assess a daily fee for each racing day upon the operation of every horseracing facility subject to the provisions of this Act. Such fees may vary to take into account the size of the facility, and shall be assessed and collected in accordance with such procedures as the Administrator shall by regulation prescribe. No funds shall be collected nor shall any be spent to carry out the purposes of this Act for any fiscal year beginning more than ten years after the date of the enactment of this Act.

AMENDMENT TO TITLE 18 OF THE UNITED STATES CODE

SEC. 10. Section 1952(b) of title 18, United States Code, relating to interstate and foreign travel or transportation in aid of racketeering enterprise, is amended by inserting immediately before the period, "or any act committed in violation of section 3 of the Act entitled 'An Act to prohibit the drugging or numbing of racehorses and related practices, and to amend title 18, United States Code, to prohibit certain activities conducted in interstate or foreign commerce relating to such practices', effective on the first day of the first fiscal year beginning more than two fiscal years after the date of enactment of such Act".

EFFECTIVE DATE

SEC. 11. The prohibitions in this Act including section 10 shall become effective and enforceable on the first day of the first fiscal year beginning more than two fiscal years after the date of enactment of this Act in order to allow the States to develop programs qualifying for State exemptions under section 7 of this Act.

ADDITIONAL STATEMENTS FOR THE RECORD

STATEMENT OF

THE AMERICAN QUARTER HORSE ASSOCIATION

On behalf of the 130,000 members of the American Quarter Horse Association (AQHA) we want to thank the Chairman and Members of the Sub-Committee for the opportunity to submit this statement.

The AQHA is the largest equine breed registry in the world, recording annually more new foals in its stud books than all of the other breeds combined. Our stud books now contain over 1.85 million registered American Quarter Horses. We are one of the oldest equine registries established in this country for a breed totally developed in this country. The AQHA was organized in 1940 and published its first stud book in 1941.

Quarter Horse racing was first officially recognized in 1944 in Tucson, Arizona. Since that time it has grown tremendously. In 1981, total purse distribution in AQHA recognized races was $47.3 million; total pari-mutuel handle was $350.1 million; total number of AQHA recognized races was 14,317; and, a total of 21,645 registered American Quarter Horses raced in 1981. AQHA recognized races were run at 88 pari-mutuel tracks in the United States and Canada and 20 non pari-mutuel tracks in the United States.

At the pari-mutuel tracks in the United States and Canada the state or provincial racing commission has complete authority and control of all Quarter Horse races. The AQHA has no jurisdiction whatsoever. We can only advise and counsel when asked. If the state or provincial commission has a permissive drug or medication list for horses running on their tracks, in effect, these tracks are operating in opposition to AQHA Rules, because we do not allow any drug or medication that could affect the performance of a horse or mask or screen a drug in the testing procedure. However, AQHA does recognize the results of these races, for our official records, because the tracks operate under the laws of the state or province.

At the 20 non pari-mutuel tracks where American Quarter Horses run, they all operate under AQHA Rules and Regulations. To insure the operation of these tracks under our rules, the AQHA Race Track Identifier is on the grounds for every race, approving all the facilities at the track and identifying every horse that runs in each and every race. In addition, an official track veterinarian, licensed to practice in the particular state, collects a urine sample from each winner of every race and sends it to our approved testing laboratory.

The following is an excerpt from the Illegal Practice section of the 1982 AQHA Regulations for Approved Grading Meets:

> "No drug or medication of any kind shall be administered to a horse, internally or externally, which may affect the performance of a horse, nor substance whether drug or otherwise, which may interfere with the testing procedure".

In addition, basically the same rules apply to over 2,000 AQHA approved horse shows that are held annually.

This organization opposes federal laws to control drugs and medication in horse racing. We do not believe it is the federal governments obligation to control this. We believe it is the obligation of the State Racing Commission, owners, trainers of the horses involved, and such other organizations that have control over horses and horsemen. High dollar fines, long term suspensions, and stiff penalties imposed by those bodies that have jurisdiction can and will control the use of drugs and medication.

POSITION OF THE
AMERICAN VETERINARY MEDICAL ASSOCIATION
ON S. 1043
FOR THE RECORD OF HEARINGS
OF THE
CRIMINAL LAW SUBCOMMITTEE
OF THE
COMMITTEE ON THE JUDICIARY
THE UNITED STATES SENATE

The American Veterinary Medical Association and the veterinarians of the country are concerned for the health and general welfare of animals, including the humane treatment of them. We are pleased to have this opportunity to express our views and recommendations on S. 1043, which proposes a way of attempting to reduce some of the problems associated with abusive treatment of horses and injuries of jockeys. We recommend that S. 1043 not be enacted because we believe, if it were federal law, it would be a deterrent to solution of the problems its proponents intend it to solve.

News media actions of the past few years have directed attention to inappropriate and illegal uses of drugs and physical numbing of horses to alter racing performance. We don't suggest that these conditions do not exist and we certainly don't condone them, but we must emphasize that there are other problems, too, some of which may even be encouraging or motivating the drug and other performance altering abuses.

We are concerned that in some areas the racing season may be too long for the supply of horses for racing, resulting in excessive physical stresses and breakdown of some of the horses involved, which in turn may result in attempts to alter performance of the weakened and stressed animals. It increases the risk of injury for jockeys.

Pre-race veterinary inspection of horses may in some areas be inadequate due to various management and financial constraints. Where pre-race inspection is weak, horses may be raced when they are not in adequate condition for racing.

Track surfaces, when improperly prepared or maintained, contribute to injuries. Animal housing, the control of pests and vermin, drainage in stable areas and general maintenance of the track environment all contribute to diseases and injuries of horses.

All of these related factors may alter performance and must be considered in dealing with abuses S. 1043 is intended to correct. All of the states which have racing activities have programs to regulate these activities. Many of these programs have been strengthened considerably in the past couple of years, and others are now being improved.

The AVMA, acting on a resolution of its House of Delegates, wrote to the state governors last summer, urging actions to adequately regulate the use of drugs and physical procedures, and otherwise improve the regulation of horseracing activities. Our recommendations to the governors were as follows:

1. Review state laws and regulations regarding horseracing and seek immediate correction of any deficiencies to assure that they:
    a. Recognize the proper therapeutic administration of medications by licensed veterinarians to alleviate conditions of disease and injury with proper entries in the medical record of the treated animal.
    b. Prohibit the clandestine use of drugs, chemicals, or physical procedures by non-veterinary personnel in order to alter the natural performance of racehorses.
    c. Provide an adequate mechanism for monitoring the horseracing industry of the state to detect violations of the laws and regulations.
2. Direct that state authorities stringently enforce the revised laws and regulations to preclude the necessity of federal intervention.
3. Call upon AVMA and the American Association of Equine Practitioners

members with expertise in equine medicine and surgery for assistance in developing appropriate rules for medication of racehorses.

We were pleased with the responses we received. The states are making great strides in improving drug detection capabilities as exemplified by the establishment of their quality assurance programs.

The states are prepared to solve the problems and have a major part of the necessary resources to do it. S. 1043, if enacted, would require the federal government, starting with no resources in this area, to build a rather massive enterprise to carry out the purposes of this act. We are concerned that many very valuable federal programs are not now performing effectively because they cannot be adequately funded due to the current federal financial situation. As one related example, the U.S. Department of Agriculture program intended to enforce the Animal Welfare Act is grossly underfunded, and the proposed budget for FY 1983 practically terminates this program. The explanation given for the 1983 budget proposal was that the states and others can do the job. Yet, in this case few, if any, state resources exist now.

A federal law authorizing a regulatory program as proposed in S. 1043 would surely be a significant deterrent to state actions to improve their existing programs. A federal law authorizing a program which fails to be appropriately funded is not only useless, it is false assurance of regulatory action. It leads to weakening the entire regulatory system. In this case, the enactment of S. 1043 now would serve no useful purpose and would very likely only erode the existing state competence.

This is the time to give a clear signal to the states to stimulate further improvement of their programs. Rejection of S. 1043 will give such a signal.

Veterinarians with particular competence in equine medicine and pharmacology will welcome opportunities to consult with state governments and racing commissions. We stand ready to assist as an association vitally concerned in this matter to help assure safe, humane conditions of horseracing.

STATEMENT OF LORNE GREENE
CHAIRMAN, COALITION FOR DRUG-FREE HORSE RACING
ON S.1043
BEFORE THE CRIMINAL LAW SUBCOMMITTEE
OF THE SENATE JUDICIARY COMMITTEE

I am pleased to have this opportunity to offer the views of the Coalition for Drug-Free Horse Racing on S.1043, the Corrupt Horse Racing Practices Act. The Coalition is made up of racehorse owners, breeders, veterinarians, legislators, representatives of humane groups and others interested in the welfare of racehorses and the integrity of horse racing. We are gravely concerned about the persistent inability of the various racing jurisdictions to control racehorse drugging, and believe that S.1043 is the only solution to this serious problem.

Racing is the Nation's most popular spectator sport. Over 77 million fans attended thoroughbred and harness tracks in 1980, and wagered over $6.5 billion. It is truly a national activity; horses from California, for example, are regularly transported to Florida, Kentucky, Maryland and New York to race. A horse may easily run in two or three states in the space of 5 or 6 weeks. Racing fans in states that do not have tracks often travel to adjacent states where racing is permitted, and thanks to off-track betting, can now wager on races run in other jurisdictions.

Despite the fact that racing has all of the characteristics of an interstate industry, the current restrictions on the pre-race drugging of horses vary from state to state. There are no common rules establishing which drugs may be present in the horse on race day, or at what level of potency. Nor do the racing jurisdictions have uniformly comprehensive and competent programs to detect the presence of illegal drugs.

The Coalition believes that the industry's size and national scope mandate that a uniform national drug prohibition and a standardized testing program be implemented.

This concept is not new. There was a time, in the not-so-distant past, that all racing jurisidictions banned drugs. However, with the adoption of "permissive medication" rules during the late 1960's and early 1970's, the racing states opened a Pandora's box that they have found impossible to close. Since then drugs with legitimate therapeutic value have been misused and -- far worse -- potent and illegal narcotics, stimulants and depressants have become far too common. As the Committee knows, drugs have been used to fix races; they can be responsible for abrupt reversals in a horse's form; they contribute to alarming increases in the number of horse breakdowns; and they pose increased risks of injury or death to jockeys.

It is inhumane to permit a horse to run on an injured leg by masking its pain with analgesics or anti-inflammatory drugs, and it is equally inhumane to dose it with stimulants or depressants to intentionally alter its performance. It is also unfair to the racing fan, who places his bet according to his best estimate of a horse's ability. Drugging artifically influences that ability, and therefore cheats the fan on whom the health of racing depends.

Racing will continue to flourish only if the fan can enjoy fair competition among sound horses. A horse that goes to post injured, but able to race because it has been medicated, is not sound. A horse whose form is dependent on the permissive medication rules legal in its home state misleads the racing fan when it travels to race in a state with more restrictive drug rules. A horse that runs on stimulants or depressants doesn't give the fan fair competition. These conditions, which clearly are not in the best interest of the horse or the industry, are allowed to persist because of the variety of drug rules now in force.

It is true that in April 1980 the National Association of State Racing Commissioners issued uniform medication guidelines and, more recently, developed a uniform drug testing and quality assurance program. Regrettably, these programs are not mandatory. The racing jurisdictions are free to adopt them, modify them or reject them. Today, more than two years after the adoption of the NASRC medication standards, only a handful of the racing jurisdictions are even close to being in full compliance with them. Many still permit horses to race on a variety of drugs. There has been strong opposition to adoption of the NASRC standards in many states, which has included legal challenges and threats of boycotts by trainers if strict anti-drug rules were adopted. Within the past two years the restrictive drugging rules initially adopted in several states, including Kentucky, Maryland and Florida, were watered down in the face of pressure from certain segments of the industry.

For these reasons, we believe that S.1043 must be enacted. S.1043 will not prevent an owner, trainer or veterinarian from treating an ill or injured horse. It will not prohibit the use of any legitimate drug for therapeutic purposes. Like the NASRC guidelines, it will simply prohibit a horse from racing while those drugs -- and any non-therapeutic drug -- are being administered.

The Coalition believes that responsible owners, breeders, trainers and veterinarians do not want the present state of affairs in the industry to continue. The inability of the racing states to agree on strict, uniform anti-drug rules makes it imperative that Congress take the lead to protect racehorses and the racing fan. Therefore, we urge the Subcommittee to report S.1043 favorably.

TESTIMONY OF HARNESS HORSEMEN INTERNATIONAL IN OPPOSITION TO SENATE BILL 1043

Harness Horsemen International (HHI) is a trade association which represents 35,000 owners, trainers and drivers of the nearly 55,000 Standardbred racehorses that race in North America annually.

The members of HHI are strongly opposed to the passage of Senate Bill 1043, the Corrupt Horseracing Practices Act. A Federal bureaucracy is not needed to oversee the regulation of horseracing in the United States. The individual states which allow pari-mutuel wagering on horseracing are the beneficiaries of racing, and it should be their obligation and responsibility to regulate racing within their boundaries.

Since the 1970's HHI has worked with other racing associations, both Thoroughbred and Standardbred, to implement a standard set of medication guidelines which were best suited for the horse, the owner, the public and the state. In so doing, HHI strongly supports the Medication Guidelines issued by the National Association of State Racing Commissioners and a similar set of recommendations issued by the American Horse Council. HHI has met with the Horsemen's Benevolent and Protective Association and has formed a Joint Committee on Medication to develop a common ground on recommendations for the use of furosemide for the treatment of epistaxis and the administration of phenylbutazone.

Progress is being made in the various racing states to be certain that no horse that is scheduled to race carries in its body any medication, or drug, or substance or metabolic derivation thereof, which is a narcotic, or which could serve as a local anesthetic, or tranquilizer, or which could stimulate or depress the circulatory, respiratory or central nervous system of a horse, thereby altering its speed.

HHI opposes the use of stimulants, depressants and local anesthetics. Further, we urge appropriate penalties be levied by state racing commissions on those found guilty of using such drugs.

Toward this end, HHI has actively petitioned state racing jurisdictions to provide sufficient funding for testing laboratories staffed by competent chemists and equipped with modern testing equipment. Further, that all states develop a method of monitoring the ability of the racing laboratory to detect all drugs.

However, to insure that the implementation and enforcement of medication rules is not left to the discretion, and abilities, of the chemist, HHI has endorsed the NASRC Uniform Drug Testing and Quality Assurance Program.

Under this program, a jurisdiction would not base its decision on finding drugs on the basis of a limited budget of revenue produced by racing. Rather it would equalize, or normalize, the scheme for the detection of drugs. Detection capabilities would be uniform and not dependent on staff size and ability nor on equipment and facilities, nor on the commitment of the commissioners in the jurisdiction, nor on the financial support it is given. Jurisdictions, no matter what their financial capabilities, could insure proper testing by virtue of adoption of the NASRC Quality Assurance Program.

The NASRC Quality Assurance Program is based on the NASRC medication guidelines and encompasses analytical chemistry, drug metabolism, pharmacobinetics and the pharmacological effects of drugs upon the horse.

It only requires further acceptance by the various jurisdictions of the NASRC medication guidelines and Quality Assurance Program to insure that the jurisdiction is controlling the use of drugs and detecting any abuse. It now includes the expertise of the staffs of Cornell and Ohio State Universities and the University of Pennsylvania. Their efforts will help to insure the very latest techniques in drug detection are available to all jurisdictions which subscribe to the program. It does not require the intervention or regulation by the Federal Government to achieve the same goal. The cost of implementing and running a Federal program would be staggering. The taxation of horseracing is expensive and further cost will stifle the growth of the industry.

HHI fully supports pre-race testing at all tracks. This method of medication testing is the most comprehensive form and protects all parties of concern most adequately. The major advantage of pre-race testing is that it prevents the racing of illegally medicated horses. Further, it is fair to all horsemen in that all horses racing are tested. Pre-race testing is highly visible and a very elaborate procedure. It is a significant deterrent to the small minority who would abuse medication. It insures the public that the racing commission is interested in fair racing standards and acts to prevent any abuse to the animal. In order to achieve this, we repeat that racing does not need the intervention of the Federal Government. Major harness racing states--New York, New Jersey, Pennsylvania and Ohio--currently conduct pre-race testing and have for many years. We urge others to provide the funding to implement this program at all their racetracks.

Harness Horsemen International supports the limited use of therapeutic medication when diagnosed, prescribed and administered only by a veterinarian licensed by his state racing commission and in accordance with its racing rules and regulations. The development of drugs such as phenylbutazone and furosemide can clearly be classified as drugs which are therapeutic and can be beneficial to the racehorse. These drugs, it has been shown in studies, do not have the problems associated with them which stimulants, narcotics and local anesthetics have which render them unsuitable for use in racing horses.

These therapeutic drugs are beneficial to the health and well-being of the horse and their effects can be seen by horsemen. It was their very efficiency in healing the horse which led racing jurisdictions to allow their use. They allow a horse to race up to his form but do not assist a horse to race faster than his potential. Further, they allow the horse to run more consistently to his form.

There is no question that, at excessive levels, there have been abuses by both horsemen and veterinarians. However, their abuses have not been allowed to go unchecked. Racing, to protect its integrity, has taken action to police the industry and insure a clean image of racing to the public.

Owners of Standardbred racehorses rely on the knowledge of the trainer for the care of their high-priced bloodstock. The professional trainer relies on his experience and the expertise of the veterinarian to help produce a racing athlete which will hopefully earn the owner a return on his investment. The hope of a return on investment and the thrill of participating and winning are what motivate an owner to buy a horse. The successful results of the trainer are what keep the owner buying and sending horses to the trainer. This allows the racetracks to conduct quality horseracing for the public.

Consequently, the horse is pampered in every way possible. He is the star, the reason for being, and has the total commitment of the trainer. The trainer works with an understanding of the horse's needs developed from hour-to-hour and day-to-day observation. He plans months in advance and works with the best available tools and services to meet his goals.

Whenever an injury to the horse might threaten the end result of the trainer, the person without experience might say, "rest the horse and the injury will heal itself." This is not usually the case, however, since conformation in the horse varies and is most often not perfect. Also, racetrack surfaces vary a great deal, as do the turns and elevation. Consequently, rest will usually only "cure" the horse until he is put back to rigorous training. The stress which racing produces and the racetrack surfaces which vary will test his conformation once again and more than likely, the same problem will recur.

The horse on phenylbutazone will heal more quickly. Once brought back to the point of the conditioning which caused his injury in the first place, he will be able to overcome these faults and go on to race and earn income without pain or discomfort.

A controlled program of therapeutic medication is one approach to the medication issue which can overcome both technical and regulatory problems. These programs have been well-thought-out and researched and when coupled with pre-race blood testing, pre-race examinations and an excellent laboratory testing facility, they have clearly shown that they work. It is therefore not necessary for the Federal Government to design a program which works to protect the horse, the public and the state.

If this proposed Bill is passed by Congress, it would not eliminate the problem of those very few whose intent is to medicate to win--to score a betting coup. The fines and suspensions are heavy, but certainly someone will view the risk as being worth taking. The various racing jurisdictions, along with the NASRC programs, can police the industry to protect everyone concerned without the added financial and administrative burden of another Federal agency.

The state racing commissions have the opportunity and the vehicles (the regional testing laboratories) to insure the integrity of racing and the humane treatment of the horse. It has been clearly shown that all segments of the racing industry are anxious to move to better insure racing's integrity. Let racing's participants, who have been so willing in recent years, be allowed to monitor their own industry. Let research and knowledge assist in the administration of the rules of racing which are presently governing the industry.

Please consider this testimony and be assured that the members of Harness Horsemen International wish to cooperate with you but ask you to defeat S. 1043.

ATTACHMENTS.

ATTACHMENT 1
TO TESTIMONY
TO CRIMINAL LAW SUBCOMMITTEE
OF THE SENATE JUDICIARY COMMITTEE

HARNESS HORSEMEN INTERNATIONAL PURPOSES

The purpose for which the Corporation is organized is to promote the sport of harness racing in the United States, Canada and other countries, and in so doing to do the following:

(A) To cooperate with all authority charged with the government of harness racing in any locality, state, province, or country, whether such authority be governmental or private, and to render such authority all possible assistance in its duties;

(B) To recommend to such authority changes in rules and regulations which, after due consideration by Harness Horsemen International, are in its opinion, in the best interests of the sport of harness racing;

(C) To cooperate with and have as its members individuals, associations, and corporations interested in the sport of harness racing; to disseminate information; to encourage the exchange of ideas and otherwise to suggest and promote improvement in the sport of harness racing with respect to problems arising in connection therewith, including but not limited to legal problems, legislation, taxes, regulations, rules and rulings, and interpretations thereof;

(D) To act as a clearing house for the exchange of information among various associations, corporations and individuals interested in the sport of harness racing and to assist in all legal ways such persons, corporations and associations.

ATTACHMENT 2
TO TESTIMONY
TO CRIMINAL LAW SUBCOMMITTEE
OF THE SENATE JUDICIARY COMMITTEE

HARNESS HORSEMEN INTERNATIONAL MEDICATION POLICY AND GUIDELINES

1. HHI opposes the use of narcotics, stimulants, depressants, and local anesthetics, and urges appropriate penalties for those found guilty of using such drugs on racehorses.
2. HHI opposes the use of any medication other than approved medication for the treatment of epistaxis as confirmed by state or commission veterinarians. No epistaxis medication should be administered at a time which interferes with any competent testing procedure.
3. HHI supports pre-race testing and veterinary examinations.
4. HHI actively petitions racing jurisdictions to provide adequate funding for laboratories with competent chemists and modern testing equipment, and recommends that all states develop a method of monitoring the ability of the racing laboratory to find all drugs.
5. HHI supports that all samples be split, properly identified and preserved for protection of all parties involved, and that each analysis performed by thorough and completed within seventy-two (72) hours.
6. HHI supports the limited use of therapeutic medication as diagnosed, prescribed, and administered by a veterinarian licensed by his state racing commission and in accordance with its racing rules and regulations.
7. HHI recommends that pharmaceutical manufacturers of drugs which could be used on racehorses be required to provide, prior to their sale, tests which specifically identify drugs that could affect the performance of racehorses.
8. HHI recommends that racetracks immediately review the construction of their racing surfaces with particular attention to elevations and cushion construction, and make appropriate changes to provide safe training and racing conditions for the horse; and
9. HHI pledges to work in cooperation with any racing commission, association, and/or testing laboratory which has compatible goals on the issue.

ATTACHMENT 3
TO TESTIMONY
TO CRIMINAL LAW SUBCOMMITTEE
OF THE SENATE JUDICIARY COMMITTEE

HHI Member Association	Tracks Represented	Jurisdiction's Rules Compared to NASRC's Guidelines
Cloverleaf Standardbred Owners Association 9 E. Loockerman Street, Suite 3B Dover, DE 19901	Rosecroft Raceway, Oxon Hill, MD	More Restrictive
	Ocean Downs, Ocean City, MD	More Restrictive
	Freestate Raceway, Freestate, MD	More Restrictive
	Brandywine Raceway, Wilmington, DE	More Restrictive
	Harrington Raceway, Harrington, DE	More Restrictive
	Dover Downs, Dover, DE	More Restrictive
Florida Standardbred Breeders and Owners Association 1800 S.W. Third Street Pompano Beach, FL 33060	Pompano Park, Pompano Beach, FL	More Restrictive
Harness Horse Association of Central New York P.O. Box 586 Vernon, NY 13476	Vernon Downs, Vernon, NY	More Restrictive
Illinois Harness Horsemen's Assn. 5440 S. Cicero Avenue Chicago, IL 60638	Sportsman's Park, Chicago, IL	As Restrictive
	Maywood Park, Chicago, IL	As Restrictive
	Hawthorne Race Course, Chicago, IL	As Restrictive
	Balmoral Park, Crete, IL	As Restrictive
	Fairmount Park, Collinsville, IL	As Restrictive
	Quad City Downs, E. St. Louis, IL	As Restrictive

HHI Member Association	Tracks Represented	Jurisdiction's Rules Compared to NASRC's Guidelines
Kentucky Harness Horsemen's Assn. 4802-B Brownsboro Center Louisville, KY 40207	Audubon Raceway, Henderson, KY	Less Restrictive
	The Red Mile, Lexington, KY	Less Restrictive
	Louisville Downs, Louisville, KY	Less Restrictive
	Latonia Trots, Florence, KY	Less Restrictive
Maine Harness Horsemen's Assoc. West Poland, ME 04291	Scarborough Downs, Scarborough, ME	As Restrictive
	Lewiston Raceway, Lewiston, ME	As Restrictive
	Bangor Raceway, Bangor, ME	As Restrictive
	Cumberland Raceway, Cumberland, ME	As Restrictive
Michigan Harness Horsemen's Assn. 4650 Moore Street, Box 349 Okemos, MI 48864	Wolverine Harness, Detroit, MI	Less Restrictive
	Hazel Park, Detroit, MI	Less Restrictive
	Jackson Raceway, Jackson, MI	Less Restrictive
	Northville Downs, Northville, MI	Less Restrictive
	Saginaw Valley Downs, Saginaw, MI	Less Restrictive
Mid-Atlantic Harness Horsemen's Assoc. 33 North Street Monticello, NY 12701	Monticello Raceway, Monticello, NY	More Restrictive
Northeastern Harness Horsemen's Assoc. Box 77 Saratoga Springs, NY 12866	Saratoga Harness, Saratoga, NY	More Restrictive
Ohio Harness Horsemen's Assoc. 150 E. Broad Street, Suite 510 Columbus, OH 43215	Raceway Park, Toledo, OH	Less Restrictive
	Scioto Downs, Columbus, OH	Less Restrictive
	Northfield Park, Cleveland, OH	Less Restrictive
	Lebanon Raceway, Lebanon, OH	Less Restrictive

HHI Member Association	Tracks Represented	Jurisdiction's Rules Compared to NASRC's Guidelines
Pennsylvania Harness Horsemen's Assoc. Box 10 Bensalem, PA 19020	Liberty Bell Park, Philadelphia, PA Pocono Downs, Wilkes-Barre, PA	As Restrictive As Restrictive
Standardbred Breeders and Owners Association of New Jersey Box 839 Freehold, NJ 07728	The Meadowlands, E. Rutherford, NJ Freehold Raceway, Freehold, NJ	More Restrictive More Restrictive
Standardbred Owners Association of New England South Park, Route 1 Walpole, MA 02081	Foxboro Raceway, Foxboro, MA	Less Restrictive
Standardbred Owners Association of New York 539 Old Country Road Westbury, NY 11590	Yonkers Raceway, Yonkers, NY Roosevelt Raceway, Westbury, NY	More Restrictive More Restrictive
Western New England Harness Horsemen's Association Box 33 Hinsdale, NH 03451	Hinsdale Raceway, Hinsdale, NY	More Restrictive
Western New York Harness Horsemen's Association Box 637 Batavia, NY 14020	Buffalo Raceway, Buffalo, NY Batavia Downs, Batavia, NY	More Restrictive More Restrictive

HHI Member Association	Tracks Represented	Jurisdiction's Rules Compared to NASRC's Guidelines
Western Standardbred Association 1047 S. Prairie Avenue, Suite 5 Inglewood, CA 90301	Hollywood Park, Inglewood, CA	Less Restrictive
	CHRA, San Jose, CA	Less Restrictive
	Golden Bear Raceway, Sacramento, CA	Less Restrictive
	Los Alamitos Race Course, Los Alamitos	Less Restrictive
	Del Mar Race Course, San Diego, CA	Less Restrictive
Ontario Harness Horsemen's Assn. 2970 Lakeshore Boulevard West Toronto, Ontario M8V 1J7	All Tracks in Ontario, Canada	More Restrictive
United Harness Horsemen's Assn. of Quebec 5375 Rue Pare, Suite 230 Montreal, Quebec H4P 1P7	All Tracks in Quebec, Canada	More Restrictive

STATEMENT
of the
ILLINOIS HOOFED ANIMAL HUMANE SOCIETY
in favor of the enactment of
S. 1043
97th Congress, 1st Session

For a number of years the Illinois Hoofed Animal Humane Society has been in the forefront of efforts to bar the us of injury-concealing drugs and techniques for horses in racing, for all of the reasons set forth in Section 2 of Senate Bill 1043, and in Section 3 of its companion, H.R. 2331. For its efforts the Society has been characterized by its opponents in the racing world, in their more charitable moments, as "anti-drug" or "anti-medication." This sophistic device, to denegrate the message by depricating the messenger, may be disposed of readily. The Society favors the use of any medication which can aid in healing, or easing the pain of injury, of any animal. It simply believes it is as wrong (if not more so, because an animal exercises no volition) to inject an equine athlete with an injury-concealing or performance-altering medication before a race, as it would be to allow such treatment for a human athlete about to enter an Olympic event.

Objection has been raised by the opponents of Senate Bill 1043, that federal legislation is inappropriate and unnecessary. They point to the adoption of anti-medication or controlled-medication rules by a member of the States' racing commissions, in the face of "threatened" federal legislation. As for these endeavors, one might merely muse over the recently reported words of a racing commissioner from a principal racing State:

> "I'm personally not against medication, but for the time being I think we should ban it so that our people can go to Washington and tell Congress that racing is cleaning up its act and to lay off. Then, if we want to bring back medication later, we can."

In this brief statement it would be difficult to synthesize the case for the proposed legislation more succinctly and forcefully than has already been done by Representative Robert McClory, in his remarks in the House of Representatives on Thursday, May 1, 1980. We adopt his remarks and urge their thoughtful rereading:

"Mr. Speaker, there is great concern among those who know and love horses that performance-altering drugs are corrupting the competition and breeding of horses, thereby jeopardizing our Nation's great race and show bloodlines.

The United States is the only country that permits the practice of druging and numbing of race and showhorses. Although various racing States have legalized what is termed "controlled medication," it is anything but that. Horseracing is fast becoming drug dependent. Many of the medications used are illegal and untested; some have been legalized; but all are inadequately controlled at the State level. While they push for increased revenues from racing, prolonged seasons, and lenient drug and training policies, State legislatures are ignoring the limitations of the horse as a living creature. The artificial means employed to enhance a horse's money-making capacity defeat the intergrity of the sport and discourage its supporters.

Over 1,000 drugs are presently undetectable by current laboratory testing methods. Stimulants, tranquilizers, hormones, painkillers, and anti-inflammatory drugs can make an animal run fast or slow, appear sound when lame, stop bleeding from the lungs, and do just about anything required of the immediate situation. Permitted drugs such as phenylbutazone and lasix mask the presence of other substances as well as the symptoms of injury, leaving the horse unsound and unhealed. The inevitable result is a hopelessly crippled horse, if he lives long enough to undergo repeated medication.

More imminent is the danger of a breakdown-the occurrence of a leg snapping or shattering under the enormous stress of overuse while racing. These incidences have increased dramatically since the 1960's, when drugs became commonplace in horseracing. When these animals suffer breakdowns, they are destroyed at the tract, sometimes not until days later when the insurance company has verified the situation, while many others must endure a long trip to the pet food factories or to Canada for human consumption.

Unnaturally inspired performances mislead breeders, who select winners, in whom drugging and numbing has overcome poor conformation, arthritic joints, and other undesirable infirmities that can be passed on. A futher detriment to quality in breeding is hormone and steroid interference with breeding ability.

Mr. Speaker, the Corrupt Horseracing Practices Act would prohibit the practice of numbing and drugging of horses in competition and would aid the States in testing and enforcement proceedures. A horse that needs medication to race should not race. He should, instead be allowed to heal naturally, compete fairly, and to lead a useful life.

Mr. Speaker, my constituent, Mrs. Donna Ewing, president of the Illinois Hoofed Animal Humane Society, has been in the forefront of seeking protection against the inhumane and rapid proliferation of administering performance-altering drugs to race and show horses. Despite her diligent personal efforts, including cooperation with various racing boards and with horse owners and breeders, as well as distinguished and highly ethical veterinarians, the problem persists and requires extensive State and national legislative action.

Mr. Speaker, my colleague from Minnesota, Congressman Bruce Vento, and I have conferred on this critical subject and are cooperating in the cosponsorship of the Corrupt Horseracing Practices Act, in which we invite other colleagues to join as cosponsors. Mr. Speaker, in my view, this legislation could provide a vehicle under which the Federal Government could correct many of the current abuses, some of which indeed should be classified as criminal.

Mr. Speaker, I am hopeful that early hearings on this legislative initiative may be undertaken and that the Congress may act promptly to pass this urgent legislation."

The proposed legislation represents a major step toward the elimination, on a nationally uniform basis, of illicit drugs and drug-and injury-concealing substances, and a return of the "sport of kings" from its present status in the United States as an increasingly sad spectacle of inhumane duplicity. No longer will consciencious racing commissioners and others in racing be compelled to go along to get along, to accept half-hearted (at best) pre-race medication restrictions in their States because "everyone else is doing it." Those who cloak their opposition to this law in the practical aphorism "it can't be inforced," are in fact those who don't want restraints and fear enforcement. You will hear no such cry from the people!

Racing (everyone involved in it and the horses who make it possible) deserves the passage of Senate Bill 1043.

CORRESPONDENCE

United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

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September 9, 1982

Mr. Robert A. McConnell
Assistant Attorney General
Office of Legislative Affairs
U.S. Department of Justice
Washington, D.C. 20530

Dear Mr. McConnell:

As you know, the Senate Subcommittee on Criminal Law held a hearing on May 26, 1982, on S. 1043, the Corrupt Horseracing Practices Act.

You may recall that in response to my request for the Administration's position on this bill, you forwarded a copy of your letter to Senator Thurmond (enclosed). In the last paragraph on page two you state, "In DEA's estimation, the bill would cost the agency $50,000,000 to implement."

To assist in my deliberation of this measure, I would be grateful if you would provide a breakdown as to how this amount was derived.

Many thanks for your cooperation.

Sincerely,

Charles McC. Mathias, Jr.

Charles McC. Mathias, Jr.
United States Senator

CM:rok

Enclosure

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

JUN 29 1981

The Honorable
Strom Thurmond
Chairman, Committee on the
  Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Justice on S.1043, a bill "to prohibit the drugging or numbing of racehorses and related practices . . .".

S.1043 would prohibit the drugging or numbing of racehorses. It would enforce against this practice by empowering the Administrator of the Drug Enforcement Administration 1) to require horseracing operators to make and maintain records, 2) to use the facilities of horseracing operators to conduct inspections, tests, and other procedures to analyze blood samples of racehorses for drug presence, to examine the horse for numbing before the race, and to analyze urine samples and test saliva after the race, and to save such samples for future analysis, 3) to report his findings that a horse was drugged or numbed to the horseracing operator, and to the U.S. Attorney for prosecution, and 4) to use current personnel and existing facilities of DEA to carry out such activities, and develop methods and techniques to identify drugging and numbing practices.

This bill provides civil penalties for persons who ignore an order by the Administrator disqualifying them from entering a drugged or numbed horse in a race. The bill further provides criminal penalties for persons who numb or drug racehorses for competitive purposes, who fail to disqualify racehorses if they know the horse was numbed or drugged, who impede enforcement of the bill's provisions through threats or actual homicide, and who keep false records.

The bill also requires the Administrator to report to Congress on or before January 1, 1982, and every two years thereafter, on matters covered by this bill and to include any appropriate recommendations.

For numerous reasons, which range from fundamentally jurisdictional to the practical, the Department opposes enactment of this proposed legislation.

The purpose of the Comprehensive Drug Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.), Title II of which is the Controlled Substances Act, is to confront illegal activity including distribution and possession, and improper use of, controlled substances, because of their substantial detrimental effect on the ". . . American people". Sec. 101, Controlled Substances Act, [21 U.S.C. 801(2)].

It is presumed here that the drugs which are the apparent although unmentioned objects of this bill are butazolidin and furosemide (Lasix), commonly known to be used in drugging and numbing racehorses. These drugs are not now controlled substances, nor do they possess characteristics which would meet the criteria for listing in any schedule of control under the Act. Neither are they substances which must be regulated as a means of controlling the manufacture, distributing or dispensing of controlled substances.

Thus, they do not fall under the regulatory and enforcement provisions of the Controlled Substances Act, and consequently they do not engage the responsibilities for the attention of the Administrator of DEA concerning his enforcement of the Act.

Regardless of whether these drugs are or are not controlled substances, the impact of their use in drugging or numbing racehorses would not have a substantial and detrimental effect on people, and thus would not serve the purpose of the Controlled Substances Act nor the real mission of the Drug Enforcement Administration: to stem drug abuse by people.

Therefore, there is no logical basis by which the Administrator, as the official delegated by the Attorney General to carry out the provisions of the Controlled Substances Act and the mission of the Drug Enforcement Administration, should direct his responsibilities and the resources of his agency toward practices or activities which do not involve controlled substances nor drug abuse by individuals.

Considering resources, the Drug Enforcement Administration could not carry out the provisions of this bill as a practical matter. In DEA's estimation, the bill would cost the agency $50,000,000 to implement.

There are currently only six DEA laboratories and they are set up to test only for the identification of controlled substances, not for the presence of drugs in blood, urine, and saliva as the bill would require. This would necessitate adding more laboratories, new scientific equipment and more personnel, the costs for all of which DEA cannot now afford.

Because the bill creates new crimes, DEA would need to augment its force of Special Agents to investigate these crimes, or reassign existing agents to these new tasks. The latter would create the irony of transferring these agents' attention and priorities away from controlled substances crimes to those involving non-controlled substances. In effect, they would then not be carring out the mission of the Drug Enforcement Administration.

The same would be true of DEA compliance investigators, who implement the provisions of agency regulations, especially those concerning controlled substance recordkeeping. Under this bill, they would be charged with investigating horseracing facility operators to determine their compliance with this bill's recordkeeping obligations, an investigative effort which would divert their attention from and controvert their priorities concerning their real mission: uncovering controlled substance regulatory violations.

The Department of Justice recommends against enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

SIGNED
ROBERT A. McCONNELL
Assistant Attorney General
Office of Legislative Affairs

U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

OCT 12 1982

Honorable Charles McC. Mathias
Chairman
Subcommittee on Criminal Law
Committee on the Judiciary
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is with further reference to your letter of September 9, 1982, requesting more detailed information with respect to the Drug Enforcement Administration (DEA) cost estimate for implementation of S. 1043, the Corrupt Horseracing Practices Act.

Enclosed is the information furnished by DEA. As you will note, further examination of the issue resulted in a higher cost estimate than was provided earlier. Moreover, DEA indicates that this estimate would be low if it is contemplated that analysis of samples should be performed at the racetrack rather than at DEA regional laboratories.

Sincerely,

Robert A. McConnell

Robert A. McConnell
Assistant Attorney General

Enclosure

Detailed Cost Estimate for Implementation of S. 1043 Relating to Drugging and Numbing of Racehorses

The estimates set out below are based on horse racing industry figures supplied by the American Horse Council. These figures indicate that there are in excess of 150 race tracks nationally with approximately 133,000 races being run each year.

The Drug Enforcement Administration estimates that an effective enforcement program would necessitate expenditures as follows:

Personnel - 150 investigators, 283 technicians to collect samples and assist chemists, 160 chemists, 25 prosecutors, clerical support ------------	$37.5 million
Equipment augment present forensic laboratory equipment to be able to test samples of horse blood and urine and motor vehicles for personnel ----------------------------------	7.5 million
Space - facility expansion to accommodate additional laboratory equipment and personnel ---------------------------	$16 million
TOTAL	$61 million

The above figures assume all samples collected at race tracks would be frozen and transported for analysis to the Drug Enforcement Administration's regional laboratories. If samples must be analyzed at the race tracks, mobile laboratory facilities would be necessary and the cost figures would necessarily increase. In addition, the estimate does not encompass possible research personnel and facilities which would also increase the cost of implementing the legislation.

United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

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October 27, 1982

Mr. Robert A. McConnell
Assistant Attorney General
U.S. Department of Justice
Office of Legislative Affairs
Washington, D.C. 20530

Dear Mr. McConnell:

Thank you for your letter of October 12, 1982, in response to my request for more detailed information concerning the Drug Enforcement Administration (DEA) cost estimate for implementation of S. 1043, the Corrupt Horse-racing Practices Act.

Though very useful, this information raises further questions which I hope you can answer. You estimate the cost for implementation at $61 million. If you could break that figure down into one-time capital investments, and annual continuing costs (e.g. for salaries, vehicle maintenance, and other equipment), I would be most grateful.

Thank you again for your past assistance.

With best wishes,

Sincerely,

Cm

Charles McC. Mathias, Jr.
United States Senator

CM:rok

U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

15 DEC 1982

Honorable Charles McC. Mathias, Jr.
Chairman
Subcommittee on Criminal Law
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in reply to your request of October 27, 1982, for further details on the Drug Enforcement Administration's (DEA) estimate to implement S. 1043, the Corrupt Horseracing Practices Act.

Enclosed is information provided by DEA which divides the approximate 61 million dollars estimated to implement S. 1043 between costs for one-time capital expenditures (nonrecurring) and annual continuing costs (recurring).

Sincerely,

Robert A. McConnell

Robert A. McConnell
Assistant Attorney General

Enclosure

Drug Enforcement Administration's Estimate of Recurring and Nonrecurring Costs to Implement S. 1043, the Corrupt Horseracing Practices Act

Recurring Costs		
Salaries and Benefits	$ 16,353,000	
Operating Expenses	8,738,000	
Other - Veterinary Costs, Sample Handling, Witness expenses, etc.	12,000,000	
Total Recurring Costs		$37,091,000
Nonrecurring Costs		
Laboratory Space	16,000,000	
Special Equipment	5,000,000	
Vehicles	2,500,000	
Total Nonrecurring Costs		$23,500,000
Total Estimated Costs		$60,591,000

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May 19, 1982

Subcommittee on Criminal Law
Ralph Oman
Staff Director
Senate Judiciary Committee
162 Russell Senate Office Building
Washington, D.C. 20510

Members of the Subcommittee:

Regarding Senate Bill S. 1043, the Maryland Horse Breeders Association's Board of Directors most strongly urges that you give this bill an unfavorable report.

We recognize the good intentions motivating introduction of this bill but hasten to urge extreme caution in the endorsement of any legislation which would jeopardize the delicate balance achieved through years of state-made rules and regulations.

We in Maryland have confidence in the fairness of the rules of our Maryland Racing Commission. Each and every regulation has been adopted (and occasionally modified or rescinded) through 60 years of hearings on rules and regulations.

Horsemen can function under these rules.

Under the provisions of S. 1043, our industry will crumble quickly and die.

Sincerely,

W. Snowden Carter

KENTUCKY STATE RACING COMMISSION

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May 20, 1982

The Honorable Charles McC.Mathias
United States Senator
358 Russell Senate Office Building
Washington, D. C. 20510

Attention: Peggy Williams

Dear Senator Mathias:

By way of introduction, I am a member of the Kentucky State Racing Commission (KSRC) appointed in May, 1980 by Governor John Y. Brown, Jr. Incidentally, I was at that time an avowed no-medication idealist.

In September, 1981, I was appointed Chairman of the newly formed Kentucky Medication Panel. This panel was the most comprehensive gathering of Kentucky's finest experts on the issue, including:

Dr. Thomas Tobin, pharmacologist, Director of the Kentucky Equine Drug Research Program, now in its tenth year. Dr. Tobin has been deservedly described, "an acknowledged world authority" by Prince Phillip, Duke of Edinburgh.

Dr. Robert Copelan, veterinarian, a premier race track practitioner of unquestionable integrity representing the Association of Equine Practitioners.

John Ward, Jr., trainer, representative of the Kentucky Owners and Thoroughbred Breeders and new legislative appointee to the KSRC.

Ed Flint, owner, President of the Kentucky Horsemen's Benevolent and Protective Association.

David Vance, race track operator, representative of the Racing Associations.

Lowell Hughes, legislator, Kentucky State Senator.

At the time this panel was formed, the KSRC's November, 1980 vote favoring "no medication" was being rejected by Kentucky's legislators who were relying on two things. A very thorough education on the issue by HBPA President, Ed Flint, and a particular clause in the Kentucky Statutes clearly interpreted as legislative intent to allow therapeutic medication in horse racing.

The initial charge of the Medication Panel was to develop a unified approach on a new Medication Rule proposal. That proposal is conceptually presented in the attached Medication Panel Report, which represents over forty hours of study based on the most recent, reliable scientific evidence available. It should be noted that this report received unanimous approval of the panel members.

While recognizing that medication is not solely a Kentucky issue, it is hoped that this input from the best experts Kentucky has to offer may be considered worthy, if not significant.

The national attention drawn to the medication issue by yourself and Senator Pryor should certainly result in a more thorough understanding of this very complex matter. It is, however, of grave concern to me that perspective may be limited in scope to:

> The Sixty Minutes television presentation, which should get an award in the category of half-truths.
>
> The Humane Society's stand, through a lack of perspective, goes contrary to the very meaning of the word humane. However, the racing industry is in their debt for "shocking" the laboratories into fast-tracking Bute and Lasix masking studies which have resulted in expediting the solutions to these and other serious medication problems. But their well-intentioned idealism would not, in the real world, be in the best interest of the horses' welfare.
>
> Federal Control of this problem would create an administrative nightmare comparable to the U. S. Postal Service and/or Social Security.
>
> National Unity involves an imperialistic philosophy so impractical as to overlook the adverse economic consequences to the great majority of an already troubled racing industry.

In the interest of time, these conclusions have been necessarily brief and may seem harsh in impact, but stripped of any negative emotional effect they are, in fact, both sincere and supportable. I would prefer to offer testimony in person and be subjected to questioning from your Committee. Unfortunately, I realize your schedule may not permit this. It is for this reason that I respectfully request the attached Medication Panel Report along with this letter be introduced into the record of the official proceedings of the Committee. I believe the report may be of help in providing an important part of the all-inclusive perspective necessary for your deliberations.

Thank you for the opportunity to provide this information. I would certainly welcome the greater opportunity to provide further explanation of my position, which somehow seems best described as, "a minority position representative of the majority of the racing industry".

Sincerely,

W. M. DeHart
Kentucky State Racing Commissioner

Attachment

Medication Panel Report

This is the first report of the Medication Panel. The Panel was created by the Ad Hoc Industry Committee and enacted by Chairman Sturgill to operate under and report to the KSRC.

The first objective was to develop the most accurate view of medication based on the most recent, reliable scientific information available.

The methodology used was to divide the complex medication issue into its smaller component issues so as to initially avoid bottom-line conclusions. The smaller basic issues were to be classified and then directed to the appropriate panel expert to act as the lead source on that particular issue, thereby minimizing lay misperceptions. Through this process the component issues of agreement could be identified and substantiated where possible. While issues of disagreement could be clearly identified leading to an in-depth evaluation of each, which should result in one of two panel conclusions:

1. Recommendation, or
2. Research necessary to provide enlightenment for future consideration.

This process generated six (6) panel meetings from which the following recommendations were developed for your consideration.

(1) Approved Medication List

Adoption of an "Approved Medication List" to replace the "Prohibited Medication List".

a. develop an appropriate procedure by which a new, potentially beneficial, medication after adequate research and review may be added to the list.

b. limit the number of NSAIDs to two for allowable race day medication.

Basis: An approved medication list approach avoids the use of new unproven potentially deleterious medications. The limit of two NSAID's assures cost effective testing procedures while maintaining a reasonable theropeutic result for the racehorse.

(2) Levels of Therapeutic Medication

Adoption of the following policy regarding levels of therapeutic medication.

> for the health of the horse and integrity of racing, the Commission testing chemist and research

> pharmacologist shall monitor medication levels in all samples tested, both blood and urine, and report any abnormal levels to the Commission. Upon receiving such notification, the Commission shall immediately contact the horse's attending veterinarian and trainer to determine all facts and to take advisory action when warranted. Violators may be subject to fine or suspension.

> Basis: This policy is an attempt to protect the horse from abnormally high levels of therapeutic medications. It is an advisory process which will originate with objective scientific discernment and provides potential penalty for the disregardful violator. The alternative of a quantitative level is necessarily arbitrary and injudiciously ignores metabolic variances.

(3) Pre-Race Testing

Implement a voluntary pre-race drug specific sampling program to be made available on a fee basis through the commission veterinarian.

> Basis: Provide horsemen with the option of assuring race day clearance of a specific legitimately administered drug not on the "Approved Medication List". At this time, a complete pre-race testing program is exhorbitant in cost, ($200,000 start up plus $1,000 per day), and has severe limitations in detection of prohibited drugs. The limited resources available to the Commission would be more effectively utilized in enhancement of the current post-race testing programs.

(4) Additional Discretionary Test Samples

Instruct the stewards to assure one discretionary sample from each race for blood and urine testing. This recommendation is subject to the availability of an additional $30,000 in sample charges from the race tracks as per statute.

> Basis: Provides an added deterent effect through a 40% increase in horses sampled. Requiring the selection of a suspicious performer from every race should result in the most effective selection process.

(5) Pre-Race Examination

Adoption of the following pre-race examination policy and procedure.

> A pre-race veterinary inspection for racing soundness will be made by the Commission veterinarian of every horse competing each day.
>
> The inspection will be made at least two hours before post-time for the race in which the horse is to compete. Icing will not be permitted before the exam.
>
> The examination will include but not be limited to:
>
> (a) Eyes.
> (b) Temperature, pulse and respiration.
> (c) Manual examination of both forelegs. If visual examination warrants, the hind legs should be examined manually.
> (d) Horse to be examined at the trot either in the shed or outside of the barn.
> (e) A record of the examination to be filed in the Commission veterinary office.

(f) If, in the opinion of the examining veterinarian, the horse fails to meet acceptable standards, he will recommend to the stewards that the horse be scratched.

Basis: The most effective way to assure that all horses are racing sound on race day for the safety of the jockey, health of the horse, and obligation to the public.

(6) Sampling Procedure

Adoption of the following policy and procedure.

Blood will be drawn upon arrival at the detention barn while urine sampling will be delayed for at least one hour past-post. A high lasix blood sample would be more easily detected thereby specifying the accompanying urine sample (herewith assured of one hour past-post clearance) for the most exhaustive testing procedures.

Basis: This revision assures the best available samples for the detection of prohibited substances and it is the most effective way to assure compliance with the current four hour lasix rule.

(7) Public Medication Information

that medication information with the headings of bleeder and anti-inflammatory be posted at the race track.

The staff suggests that the entry form be revised to include this information with changes to be reported to the Racing Secretary four hours prior to first post and that it be posted by association employees on the addition and corrections board.

Basis: Disclosure to the racing public.

New Information Reviewed

February 21, 1981

Dr. Corrine Raphael of the New Bolton Center -

"Last October we examined 191 horses within two hours after racing, and 144 of them (75 per cent) showed evidence of bleeding on endoscopic examination. Only 12 horses (nine per cent) showed bleeding at the nostrils, suggesting that 66 per cent of bleeders may go undetected."

March 2, 1981

Testimony of Dr. John McDonald, Laboratory Director for the Illinois Racing Board -

The court asked "Let's assume I could order your entire agency be given the most modern available equipment, the most adequate personnel; would the use of Phenylbutazone, Butazolodin, Lasix and/or Banamine pose any problem to your agency in effecting the obligation that your department has in connection with horse racing in Illinois?"

Dr. McDonald's answer, "No, Sir."

April 2, 1981

Dr. Lawrence R. Soma of the New Bolton Center -

In a report on Pulmonary Hemorrhage and Furosemide Medication after a lengthy description of the cause of hemorrhage states "The very fact that furosemide, a diuretic is helpful in preventing bleeding in the exercising thoroughbred tends to substantiate the above mechanism of action."

. . .

Dr. Tobin's recent study on Furosemide makes the observation, "While scientific studies on the efficacy of furosemide for EIPH are not available, there is both a clear medical rationale and supporting clinical experience to justify its use in EIPH.", and later concludes, "Four hours is a conservative time pre-race to administer an anti-epistaxis dose of Lasix. In fact, these data suggest that the drug could be administered in anti-epistaxis doses as close as three hours prior to sampling with little effect on drum detection in post-race urine samples. These data further suggest that the diluting effect of furosemide on urinary drug concentrations in actual practices may be relatively small. As one approach to this problem, we measured and compared the concentration of phenylbutazone and its metabolites in the post-race urines of horses with and without furosemide pre-treatment. These data show that the apparent dilution of phenylbutazone and its metabolites in equine urine amounts to less than a 50% reduction in drug concentration in equine urine. Since all practical analytical methods have a margin of safety of much greater than 50%, this reduction in concentration is unlikely to be forensically significant. It is highly unlikely that anti-epistaxis doses of furosemide will significantly affect the detection of drugs in blood."

Other Supporting Information

"Fifth Reprt of the Equine, Drug Research & Testing Laboratories" dated June 30, 1981.

"Drugs and the Performance Horse" by Dr. Thomas Tobin.

Summary of Information on Phenylbutazone, Dr. John T. Bryan, May 23, 1980.

University of Kentucky Equine Drug Program Budget Proposals.

NASRC Quality Assurance Program.

The California Rule, NASRC Rule, The July Rule, The November Rule.

"The Future of Medication in Racing", Thoroughbred Record Article, dated December 10, 1980.

"A Rounded View", Blood Horse Article, dated April 11, 1981.

Memorandum to Commissioner Green from Dr. L. M. Roach, dated January 7, 1981.

Memorandum to Commissioner Greed from Clarkson Beard, dated March 2, 1981

There will never be a final answer in an issue as complex and changing as medication. However, based on the evidence currently available, the Medication Panel strongly urges the adoption of the current Kentucky Medication Rule as modified by the foregoing recommendations. The Panel is committed to seek further refinement through a continuing study of new information as it develops. Other areas identified for Panel study include:

1. Reporting procedures and disposition of suspicious and positive test findings.
2. Coordination of lab samples and medication reports.
3. Review of violations and penalties.
4. Review of research priorities and funding.
5. Development of an informative Medication Pamphlet for horsemen.

Respectfully submitted,

Medication Panel Members

Robert W. Copelan, D.V.M.
Dr. Tom Tobin, Pharmacologist
Ed Flint, H.B.P.A.
John T. Ward, Jr., K.O.T.B. Representative
David Vance, Racing Association
Senator Lowell Hughes, Legislator

W. M. DeHart, Chairman

MR

EXECUTIVE OFFICES

May 21, 1982

Mr. Ralph Oman, Staff Director
Subcommittee on Criminal Law
Senate Judiciary Committee
162 Russell Senate Office Building
Washington, D.C. 20510

Dear Mr. Oman:

Sullivan County Harness Racing Association, Inc. has been advised that the Subcommittee on Criminal Law of the Senate Judiciary Committee will conduct a hearing on May 26th on Senate Bill S. 1043, legislation which would prohibit the racing of any horse under the influence of drugs and establish a Federal presence in racing to oversee testing and enforcement standards.

Monticello Raceway feels that this Bill would not be in the best interest of Pari-Mutuel Wagering and is in whole hearted agreement with the medication policy favored by the National Association of Racing Commissioners.

Very truly yours,

Leo Doobin
President & General Manager

LD/lk

cc: American Horse Council

THE SULLIVAN COUNTY HARNESS RACING ASSOCIATION, INC., MONTICELLO, N. Y. 12701 • 914-794-4100

Jockeys' Guild
INC.
ROOM 1501
555 FIFTH AVENUE · NEW YORK, N.Y. 10017
212 687 7746

May 27, 1982

Senator Charles C. Mathias
Chairman, Subcommittee on Criminal Law
Senate Committee on Judiciary
Senate Office Building
Washington, D.C. 20510

Re: Corrupt Horseracing Practices Act (S.1043)

Dear Senator Mathias:

I am writing you in connection with the Public Hearings being held by your Committee this week to consider the above Bill. I had originally understood that I would be scheduled, through the American Horse Council, to appear before your Committee, but I gather that the Committee's time schedule did not permit this. Accordingly, I am submitting my comments in writing.

I was deeply impressed by your remarks in August, 1981 at The Jockey Club's Round Table in Saratoga, New York, regarding the injuries being suffered by jockeys as a result of the indiscriminate medication of thoroughbred horses by owners or their agents. Your remarks were quoted as follows:

> "Their disingenuous talk of harmless cures is belied by the rapid increase in the number of bloody race track accidents, where the pre-race use of painkillers, respiration aids and other medication has led to serious, sometimes fatal, breakdowns."
>
> "All too often, horses in no condition to run have been brought to the starting gate only to break down in the middle of the race. More than one accident has ended in the death of the horse and the jockey. I am sure some of you have seen such tragedies with your own eyes."
>
> "As these accidents continue, the threat of federal regulation grows."

As you are probably aware, three jockeys fell at Saratoga on Sunday, August 23, shortly after your comments. You are entirely correct that an increasing number of jockeys are suffering severe injuries, permanent disability and even death each year, and that many of the accidents causing them could be attributable to the improper medication of horses. No one can share the pain and suffering of those injuries. However, it seems elementary that the parties involved, including particularly the state governments which derive substantial revenue from racing, should do their utmost to prevent such injuries from occurring, whenever possible, and to provide for adequate compensation of injured jockeys when they do occur. Unfortunately, this has never been the case.

I. Federal Jurisdiction of Racing Industry

I recognize the jurisdiction of the Federal Government to regulate the racing industry as one which is particularly involved with interstate commerce, and note its previous exercise of that jurisdiction in the Interstate Horseracing Act of 1978 (15 U.S.C. §3001 et seq.), and in 18 U.S.C. §224, which makes it illegal to attempt to influence or affect the outcome of a sporting event. I welcome your concern for the welfare of the industry, and particularly for the welfare of the jockeys who participate in it.

II. Background regarding Guild and its Programs

The Guild is a New York not-for-profit corporation which is exempt from federal income taxation as a social welfare organization. It was formed in 1940 to establish a fund to care for injured and disabled jockeys. It now pays out over $1,297,000 a year in the form of premiums for hospital, surgical, major medical and life insurance, in the form of disability payments to injured jockeys, and in the form of direct financial assistance to those permanently injured jockeys who were hurt at a time when there was no insurance or who have exhausted their insurance benefits. The Guild pays for these benefits out of assessments on each mount fee earned by its member-jockeys, with the result that the more successful jockeys pay for most of the benefits provided to their less fortunate brethren. However, because mount fees have, in many states, remained unchanged at the levels that existed in 1968, we have effectively reached the limit on what can reasonably be assessed.

It is true that the racing associations themselves carry track-accident insurance, but the limits are hopelessly low. It is also true that, in recent years, some racing associations have been subsidizing the Guild's health program by paying the Guild, in exchange for the right to use the jockeys' names and pictures for radio, television and off-track betting purposes, $1 or $2 a starter. But most of the 100-odd racing associations in the country are in serious financial difficulty, and we cannot logically expect much more assistance from them.

At the same time, hospital and surgical costs have skyrocketed.

III. The Attack on Workmen's Compensation for Jockeys

Until recently, the burden of the escalating cost of the injuries, disability and death of jockeys was mitigated somewhat by the fact that jockeys have been treated as employees of the horse owner, for workmen's compensation purposes, in the chief industrial states such as New York, California and New Jersey, which account for about 30% of thoroughbreds starting in parimutuel races in the United States. Careful analysis of the legal and factual relationships between owner and jockey justifies this treatment. Furthermore, the entire industry benefits from the "no-fault" concept of liability which flows from it.

However, even this measure of protection is not uniform, nationwide, because jockeys have traditionally been regarded as independent contractors in many of our agricultural states. Furthermore, the Guild and its members have recently been the object of a concerted campaign by the Horsemen's Benevolent and Protective Association ("HBPA"), a Rhode Island not-for-profit corporation representing some 50,000 owners and trainers, not only to limit the amount of a jockey's mount fee, but also to have all jockeys treated as independent contractors. The purpose of the latter campaign is to eliminate the owners' obligation to provide workmen's compensation coverage for jockeys in those states where it is presently required, and thus eliminate entirely their obligation to pay any part of these costs.

To date, the HBPA has succeeded in having the requirement for workmen's compensation coverage removed by the Colorado Racing Commission, despite the fact that legislation intended to achieve that result had been vetoed by the governor. The HBPA also obtained a decision from a lower court in New York, invalidating a Declaratory Ruling issued by the State Racing and Wagering Board which had upheld its rule requiring owners to provide workmen's compensation coverage for jockeys. Although that decision was reversed by an intermediate appellate court, the horsemen are now pursuing an appeal to the State's highest court, the Court of Appeals.

IV. The Power of the HBPA.

Unfortunately, in pressing its campaign, the HBPA has the advantage of tremendous economic and political power, which is derived from legislation in some states and from exclusive dealing contracts with racing associations in other states, having the legal or practical effect of prohibiting an owner from racing his horse in that state or at that track without becoming a member of the HBPA and contributing to it. Through these arrangements, the HBPA has accumulated huge "political action funds" in various states, with a view to extending and exercising this monopolistic power to achieve its goals.

By way of contrast, the average jockey, who is often a minor to begin with, does not have the ability to bargain on anywhere near equal terms with the owner (or his agent, the trainer). Furthermore, as the HBPA extends its economic and political power in the various states, the Guild itself is losing the ability to protect the jockeys against the predatory practices of owners and trainers.

V. Many Racing Commissions are Ducking Their Responsibilities

The problem has been aggravated by the fact that the racing commissions in many of our States have been reluctant to exercise their full powers, and even statutory duties, for fear of alienating the politically powerful horsemen. The issue of medication rules provides a perfect example: although the National Association of State Racing Commissioners has for several years promulgated specific guidelines banning the use of medication consisting of substances foreign to the natural horse, and permitting only minimal doses of phenylbutazone, the vast majority of state racing commissions have either (i) failed to issue any medication rules at all, or (ii) failed to provide adequate enforcement mechanisms for those medication rules that were issued. The commissions have further compounded this failure by refusing to enact, or, as in the case of Colorado, rescinding, regulations requiring owners to provide workmen's compensation or any other insurance coverage for the jockeys who ride their horses, even though it is well known that horses frequently run in races while under the injury-masking effects of medication, thus creating grave risks for jockeys.

VI. The Grim Prognosis

In each of its submissions on the subject of workmen's compensation, before courts, legislatures, racing commissions and state executives, the Guild and its members are being forced more and more to point out the obvious - that (1) because it is the owner who both supplies the horse (the principal item of equipment and the primary instrumentality of danger) and (directly or through his agent, the trainer) controls its medication; (2) because of the unpaid but strictly controlled exercise services which the owner (or his agent, the trainer) requires of the average jockey during the mornings before a race; (3) because of the ongoing relationships which frequently exist between owners and particular jockeys; and so forth, jockeys may not only be employees of owners under the "general supervision" test often applied in industrial states to workmen's compensation cases, but may be employees for purposes of other laws as well.

Unless the industry promptly solves the problem of how the escalating costs of a jockey's injuries will be paid for, the only real alternative for the jockeys will be to establish themselves as employees for all purposes, and form a union. However, it is my own view that such a course of action would be a mistake for the jockeys, and a tragedy for the thoroughbred racing industry. The result would be that a national industry would be broken up into small bargaining units, and that the National Labor Relations Board, which has until now refused to exercise its unquestioned jurisdiction over the thoroughbred racing industry, would feel compelled to do so. I do not deceive myself into thinking that the Guild, with only 1,400 active members, could long resist being swallowed up by one of the more powerful international unions. If that happened, I think the integrity of racing could be seriously jeopardized.

VII. The Solution

Thus, it has become clear that federal legislation is urgently needed to counter the morally untenable position which is now being successfully maintained by the horsemen in many states, to the effect that an owner is entitled to medicate a horse indiscriminately, but is not responsible for the injuries, disability or death of a jockey which result from improper medication.

However, I do not believe that S.1043, as presently written, is the proper approach. To be effective, your bill would require the presence of the Federal Government at every race track during every race meeting, and would involve it in every aspect of racing. I simply do not view such an extensive regulatory effort to be an appropriate use of federal resources at this time. Instead, I believe it would be more cost-effective to require the racing commissions of the various states to shoulder the initial responsibility of enforcing a simple federal standard regarding the medication of horses.

I therefore respectfully request your Committee to consider legislation to the following effect:

> 1. Limit on Medication. "No horse which is (i) transported across State lines for the purpose of racing or training to race, or (ii) entered to participate in a race, the results of which are transmitted in interstate commerce, shall be administered or receive any medication whatsoever within the twenty-four hour period immediately preceding the post-time of any race in which he is entered."

This position has been adopted by the Guild's Board of Directors at its annual meetings for each of the past three years.

It would not only prevent the catastrophic spills which result when a horse's pre-race disabilities are masked by last-minute medication, but also eliminate the effect of most substances that can alter a horse's performance, and thus implement more fully the spirit and intent of those provisions of the Criminal Code that deal with affecting the outcome of a race.

> 2. Testing of Disabled Horses. "In the event that a horse, which (i) is transported across State lines for the purpose of racing or training to race, or (ii) participates in a race, the results of which are transmitted in interstate commerce, falls during a race, such horse shall be immediately tested for the presence of medication by a qualified veterinarian designated for this purpose by commission regulating racing in the state where the race was conducted; and the results of such tests shall be made public immediately upon their completion. The results of all such tests shall also be promptly reported to the Drug Enforcement Agency of the United States Department of Justice.

Among other things, the test results would help to provide further information on the exact nature and duration of the effects of various types of medications, and thus provide a data base for any further regulation which may be deemed necessary in the future.

We propose further that the following paragraph be added for the protection of jockeys, who have no way of knowing whether the horses they ride have been improperly medicated or not:

> 3. Liability of Owner. "Every owner of a horse which is (i) transported across State lines for the purpose of racing or training to race, or (ii) entered to participate in a race, the results of which are transmitted in interstate commerce, shall be liable in damages to any person suffering injury caused by such horse, or arising out of a race in which such horse is participating, or resulting from any act or omission of such owner or his agents, or in the event of the death of such person, to his personal representative. Neither the contributory negligence of such person nor his assumption of risk shall bar recovery."

As written, the liability would extend beyond injuries, disability or death caused by improper medication. This is because the present lack of reliable scientific information about the precise effects of the various, and proliferating, types of medication available, often make it impossible to prove that any particular injury was, or was not, the result of improper medication. As in the case of the Federal Employers' Liability Act, after which the language is patterned, and as under the no-fault rule of liability of the workmen's compensation laws, the liability would be absolute.

In order to ensure that horse owners will be able to satisfy any award of damages which may arise from the liability established by paragraph 3, we respectfully request you to consider a further provision, as follows:

> 4. Surety Bond. "Every owner of a horse which is (i) transported across State lines for the purpose of racing or training to race, or (ii) entered to participate in a race, the results of which are transmitted in interstate commerce, shall post with

> the commission regulating such racing, in each State where the horse is trained or entered in a race, a surety bond guaranteeing the satisfaction of any judgment entered against such owner for damages in respect of the injury, disability and/or death of any jockey, apprentice jockey, trainer, exercise boy, stable employee, racing official, or racing-association employee caused by such horse, or arising out of a race in which such horse is participating, or resulting from any act or omission within such State of such owner or his agents, or involving such horse during his transportation into or out of such State, in the amount of at least $500,000 for the injury, disability or death of any one individual and at least $1,000,000 for any one accident. Each such owner shall also designate the Chairman of such commission as his agent for service of process in any action or proceeding to recover such damages in the Courts of such State or the Courts of the United States."

Finally, in order to provide an adequate enforcement mechanism to ensure that owners and their agents comply with the foregoing requirements, we respectfully suggest that the following provision also be considered:

> 5. Penalty. "Any violation of or failure to comply with this statute shall constitute a felony, punishable by imprisonment of not less than one year or a fine of $10,000, or both."

I would be more than happy to appear and give testimony in support of such legislation at any further hearings which might be scheduled to consider it, either as part of the Corrupt Horseracing Practices Act, which is presently before your Subcommittee (S.1043),the companion Bill introduced in the House of Representatives by the Honorable Bruce F. Vento of Minnesota (H.R.2331), or independently of either.

VIII. Continuing Jurisdiction of Your Committee

Regardless of the outcome of the specific legislation which is now before your Committee, I hope that it will continue to exercise watchdog jurisdiction over the racing industry.

Respectfully,

Nicholas Jemas

Nicholas Jemas

cc: Senator Paul Laxalt
Senator Arlen Specter
Senator Robert J. Dole
Senator Joseph R. Bieden, Jr.
Senator Howard M. Metzenbaum
Senator Howell Heflin
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May 28, 1982

Honorable Charles Mathias
United States Senate
Senate Office Building
Washington, D. C.

Dear Senator:

I am writing this letter with respect to the horse racing drug control bill now pending before your subcommittee.

I served as Chairman of the West Virginia Racing Commission in the years 1978 through 1981. I resigned that position to accept appointment by our Governor to the West Virginia Board of Regents, where I am now serving.

During my three years as Chairman of the West Virginia Racing Commission, we made an in depth study of the effect of Phenylbutazone (Butazolidin) and Furosemide (Lasix) upon thoroughbred racing at Waterford Park and Charles Town, our two tracks.

It was clear after this study that the legal use of these drugs was not in the best interests of racing for the following reasons:

1. They masked the use of other drugs which were stimulants and therefore potentially affected the outcome of racing;

2. Their use led to lack of public confidence in the integrity of the sport;

3. They increased the incidents of injury to the horses and decreased the racing lifetime of each animal on the medication program. (The Commission has statistics carefully maintained over the years at Waterford Park which supports this conclusion.)

As a result of our experience with drugs, our Commission in January of 1980 unanimously banned all drugs in West Virginia racing. Our action was met by the racing interests in this state by threats of strikes and boycotts. As a result, our rule change was never implemented due to the intervention of the Legislative

Rules Committee of the Legislature, which had the authority to block the rule.

Since I have left the Commission, it is my understanding that there has been some effort to tighten the medication rules. However, Butazolidin and Lasix are still widely used and it is naive to believe they are being controlled.

Finally, I would urge the adoption of the federal legislation as the only solution for control of a problem which will eventually destroy racing. As our experience here in West Virginia will show, control at the state level is not likely due to the exaggerated view of racing interests' political influence.

There is also the matter of uniformity among the states which was repeatedly used here as the reason against our ban. In other words, it was argued that if we banned drugs and other states did not, that the horsemen would leave for the other states. This problem can only be controlled by federal legislation.

I would urge enactment of Senator Pryor's bill.

Respectfully,

W E Watson

William E. Watson

WEW:em
cc: Senator David Pryor
Robert O. Baker, Humane
Society of the United
States

Association of Official Racing Chemists

June 1, 1982

Mr. Ralph Oman, Staff Director
Subcommittee on Criminal Law
162 Russell Senate Office Bldg.
Washington, D.C. 20510

RE: S.1043

Dear Mr. Oman:

The following comments are submitted to express the views and opinions of the Association of Official Racing Chemists (AORC) in opposition to S.1043.

AORC was formed in 1947 to provide a mechanism whereby the official racing chemists in the United States, Canada and many other countries could exchange information on new and improved methods of drug detection and could conduct research studies on analytical methods for detecting new drugs as they were introduced in markets throughout the world.

Currently the majority of official racing chemists in the United States, Canada and many foreign countries are members of AORC. Throughout its 35 year history AORC members have conducted a large number of drug administration studies in racing animals and have developed the majority of the highly sophisticated drug detection methods now widely used in racing laboratories.

The following are our reasons for opposing S.1043:

1. S.1043 would create an unnecessary expansion of a government agency, increase the number of federal government employees, add a very substantial tax burden and would accomplish nothing which is not already being handled by existing state racing authorities.

2. S.1043 is based on the assumption that the prohibition and control of drugging and numbing of racehorses is not being executed by racing authorities in various jurisdictions. While this assumption may have had some validity in some areas several years ago, it is incorrect at this time.

   In addition to the continued activity of the National Association of State Racing Commissioners (NASRC) in establishing uniform rules, there are two important quality assurance programs underway to improve the systems of drug detection in racehorses. First, NASRC has established a quality assurance program whereby official racing chemists are supplied with blood or urine samples from horses to whom specific drugs have been administered. This enables the chemist to check his ability to detect such drug or its metabolites and provides an opportunity to receive assistance in improving his technique if he has had difficulty. In addition, these studies enable veterinary pharmacologists to accumulate data on which it may ultimately be possible to establish permissable trace levels of substances foreign to the natural horse that are considered innocuous. This NASRC quality assurance program was initiated in 1981 and is making steady progress.

   AORC has operated a quality control and quality assurance program for the past ten years. Unknown samples containing various drugs are supplied to AORC members each year to evaluate their ability in drug detection. Also, in 1981 an additional quality assurance program, somewhat similar to the NASRC program, was initiated and is now utilized by the majority of official racing laboratories in the United States. This new program supplies a sample each month from horses to whom various drugs have been administered and also provides assistance to the racing chemst who may have been having some problem in the detection of a specific drug or its metabolites. It is anticipated that this program will be continued for the next several years.

Thus, both the NASRC and AORC have taken very aggressive action in establishing programs to prohibit the drugging and numbing of racehorses.

3. S.1043 would establish another layer of government which would generally duplicate the existing function of state racing commissions.

4. Whatever contribution the Drug Enforcement Administration could make to the racing industry could readily be made on a consulting basis without expansion of their personnel and without the need for the elaborate organization and excessive costs as outlined in S.1043.

5. The proposed research studies, as outlined in Section 6 (a) of S.1043 are already being initiated by the above described NASRC and AORC programs and by other research funding.

In summary, the Association of Official Racing Chemists respectfully requests that S.1043 be killed in committee for it would serve no useful purpose, it would duplicate activities being developed or already in place to prohibit drugging or numbing of racehorses, and it would add a substantial and unnecessary tax burden.

Respectfully submitted,
Association of Official Racing Chemists

Lewis E Harris

Lewis E. Harris, Sc.D.
President

LEH:ne

THE HUMANE SOCIETY OF THE UNITED STATES™

2100 L Street, N.W.
Washington, D.C. 20037
(202) 452-1100

January 24, 1983

The Honorable Charles McC Mathias, Jr.
358 Russell Building
Washington, D.C. 20510

Dear Senator Mathias:

Mr. Marc Paulhus has asked me to respond to your letter of December 21, 1982 pertaining to the Drug Enforcement Administration's estimate of the cost of implementing S. 1043, The Corrupt Horse Racing Practices Act. Mr. Paulhus has recently been appointed Regional Director of HSUS's Southeast Regional Office and I have assumed his duties in reference to S. 1043.

I am grateful to you for extending us the opportunity to comment on the DEA's estimate. However, since the DEA's estimate is in summary form, it is difficult to ascertain exactly what the costs include and how the figures were determined.

It is also difficult to comment on the DEA's estimate since there are few state programs which provide the drug testing and enforcement mechanism as would be required by S. 1043 and thus it is impossible to compute the costs on a state by state basis. Additionally, it is difficult to determine the cost of drug testing and enforcement of drug rules in individual states, since few states have these costs itemized separately in their budgets.

To derive a close estimate of the total nationwide cost for complying with the provisions of this Act, it is possible to extrapolate from the expenditures for the State of New York drug control program. New York is chosen for three reasons; 1). New York has the only program that closely conforms with the standards set forth in S. 1043. 2). New York provides accurate figures for expenses of drug testing and research. 3). New York state contains racetracks of various sizes with diverse amounts of revenues and thus can be used as a representative model for a national program.

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New York's estimated total program budget for the fiscal year April 1, 1983 through March 31, 1984 is $5,347,444.00. This budget estimate is itemized accordingly:

1). $2,239,000.00 for the total cost of drug testing including both pre-race blood testing at the tracks, and post-race urinalysis at Cornell University and provides for the analysis of 220,000 specimens per year. This amount also includes the amortization of laboratory equipment and other nonrecurring costs.

2). $500,000.00 to Cornell University to conduct research studies to develop methods, techniques, and procedures for drug testing.

3). $2,608,444.00 toward salaries for veterinarians, veterinarian assistants, and inspectors, and miscellaneous expenses. This budget also allots money for physical examinations of horses, identification of horses, and other procedures not related to the enforcement of S. 1043. S. 1043 would only require for the collection of samples, investigative surveillance, and inspections to determine if a horse has been numbed prior to a race. Therefore S. 1043 would only necessitate approximately one-half of this budget item or an amount of $1,304,222.00.

By extrapolating figures from New York's estimated budget, the total cost of implementing S. 1043 in the State of New York would be $4,043,222.00. With a total of 1660 days of racing annually in New York, the total cost per track per race day would be approximately $2,436.00.

If this cost per track per race day was multiplied by the total number of race days in the United States, 13,464, the total cost of enforcing the Federal standards as outlined in S. 1043 would be 32,800,000 which includes both recurring costs and nonrecurring costs. This amount would be approximately one-half of the estimate submitted by the Drug Enforcement Administration.

Such a sum appears especially modest when one considers that the total wagered on American races in 1981 was close to 11.5 billion dollars. Therefore the cost for the drug control program as expressed in this Act would amount to an insignificant 0.29% of the total handle.

It must be emphasized that this Act provides that the Administrator may, in order to meet the costs necessary to carry out this Act, assess a daily fee for each horse racing facility subject to the provisions of this Act. The actual cost to the Federal Government and to the American taxpayers would be negligible since the cost of this program would be borne by the racetracks and not the Drug Enforcement Administration.

The daily fee assessed the racetracks would not be a burden on the racetracks since the racetracks are already paying for a drug testing program either directly or indirectly through a state assessment on a portion of the track handle.

The only nonassessable cost which the Drug Enforcement Administration would incur in the enforcement of this Act would be the costs involved in annually reviewing the operations of any State's program which was exempted from the operations of this Act. The amount necessary for reviewing the records and conducting periodic on-site inspection of the drug testing and enforcement programs would be determined by the number of States which request and are granted exemptions; but should be no more than $500,000.00 to $750,000.00 per year.

As is evident from the above, the costs to the American taxpayers for the enactment of S. 1043 and the enforcement of its provisions, are negligible; especially when compared to the beneficial effects this Act will have on the welfare of the horses, the jockeys who ride such horses, the protection of the wagering public, and the protection of the integrity of the sport of horse racing.

If you have any questions on the above or any additional inquiries about S. 1043, please feel free to contact us. Thank you again for your interest in S. 1043 and allowing us the opportunity to comment on the DEA's estimate.

Sincerely,

Robert O. Baker

Robert O. Baker
Field Investigator
Department of Investigations

ROB/img